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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR 1991

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR 1991

WEDNESDAY, MARCH 14, 1990.

INTERSTATE COMMERCE COMMISSION

WITNESSES

EDWARD J. PHILBIN, CHAIRMAN

EDWARD E. GUTHRIE, MANAGING DIRECTOR

BERNARD GAILLARD, DIRECTOR, OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

ANTHONY JACOBIK, JR., CHIEF, BUDGET AND FISCAL OFFICE

AUBREY H. HERNDON, ASSISTANT TO THE DIRECTOR, BUREAU OF ACCOUNTS

JANE MACKALL, DIRECTOR, OFFICE OF PROCEEDINGS

ROBERT S. BURK, GENERAL COUNSEL

Mr. LEHMAN. The Subcommittee will come to order.

This morning, the Subcommittee will receive testimony on the Interstate Commerce Commission's fiscal year 1991 budget request. That request totals $43.8 million and 645 staff years.

Our witness this morning is Mr. Edward J. Philbin. Mr. Philbin was previously the Commissioner of the Federal Maritime Commission, and has been head of the ICC since February 8, 1990. Mr. Philbin, since this is your first appearance before the Subcommittee, we want to offer you a very special welcome today. We will insert your biography and prepared statement into the record at this point.

[The information follows:]

EDWARD J. PHILBIN
Chairman
Interstate Commerce Commission

Edward J. Philbin was nominated by President Bush on November 8, 1989, to become the Chairman of the Interstate Commerce Commission. He was confirmed by the Full Senate on February 8, 1990.

He was nominated by President Reagan on September 12, 1984, to become Commissioner of the Federal Maritime Commission. He was appointed to that position by the President during the Congressional recess in November 1984. Subsequently, he was renominated to the position in January 1985 and was confirmed by the full Senate on March 19, 1985. President Reagan designated him as Acting Chairman of the Federal Maritime Commission on February 22, 1988, and he served in that capacity until May 1988.

Prior to his latest appointment, Commissioner Philbin had been nominated by President Reagan on June 5, 1981, to become the Deputy Assistant Secretary of Defense for Reserve Affairs and was confirmed by the Senate on June 15, 1981. In that post, he was the highest ranking civilian appointee in the Department of Defense with specific staff responsibility for management of the nation's seven Reserve Components of the Army, Navy, Air Force, Marine Corps and Coast Guard (comprising approximately two million men and women), representing their capabilities and needs within the Executive Branch and before various Committees of Congress and with responsibility for more than $16 billion of the DoD budget. He was the Acting Secretary from October 1, 1983 to April 30, 1984.

His Reserve career began in 1949 with five years of service as an enlisted Naval Air Reservist. His current position is as Commander, New Jersey Air National Guard with the rank of Major General. Prior to that assignment he served as Deputy Commanding General for Air, District of Columbia National Guard. Commissioned from the Air Force Reserve Officers Training Corps at San Diego State University, he then served two years on active duty with the Air Force as a navigator and bombardier. His subsequent continuous Reserve service includes 57 months of command experience, over 1,000 flying hours, and, after being designated a Distinguished Graduate of the Class of 1978, selection as the first Reserve Officer appointed to the faculty of the Air War College. Mr. Philbin has served numerous tours of active Reserve duty, including that as Director of Research for the Secretary of Defense Reserve Forces Policy Board when, during 1980, he co-authored a major study entitled "The Reserve Forces in the 1990's." His military awards include the Legion of Merit, Meritorious Service Medal with 2 Oak Leaf Clusters, and the Navy and Air Force Commendation Medals.

Born in New York City in 1932, he was awarded a Bachelor of Science in Mechanical Engineering from San Diego State University in 1957; and in 1965 received his Juris Doctorate, summa cum laude, from the University of San Diego School of Law. Mr. Philbin entered the practice of law in 1966 from a career of engineering and physics in the fields of aircraft and space systems design and weapons research. He became a partner in a law firm in San Diego, specializing in civil litigation. He joined the University of San Diego School of Law faculty in 1970, served as an Assistant Dean, and was a tenured Professor of Law from 1973 until his resignation in 1985.

He is the author of over two dozen articles and studies in the fields of engineering, physics, law, and military affairs. The recipient of numerous academic, civic, professional—and military awards, he received the National Geographic Society's General Orvil A. Anderson Award for excellence in political-military thought for his research study at the Air War College in 1978 and in June 1984 was named to the Minute Man Hall of Fame by the Reserve Officers Association of the United States.

His wife, Vivian, is an attorney in Washington, D.C. They live in Arlington, VA, with their two sons, Matthew and Michael.

February 13, 1990

STATEMENT OF EDWARD J. PHILBIN
CHAIRMAN, INTERSTATE COMMERCE COMMISSION
BEFORE THE SUBCOMMITTEE ON
TRANSPORTATION AND RELATED AGENCIES
HOUSE COMMITTEE ON APPROPRIATIONS

Fiscal Year 1991 Budget Request

March 14, 1990

Mr. Chairman, Members of the Subcommittee:

Thank you for inviting me here today to testify in support of the Interstate Commerce Commission's appropriation request for FY 1991. Before discussing the Commission's budget request, I would like to highlight some of the Commission's recent actions and plans for the immediate future.

The Commission has issued decisions on a number of policy issues in the rail area: preparing new streamlined procedures for state recertification to regulate intrastate rail transportation; adjustments to the Commission's handling of environmental, historical preservation, financial assistance, and trails use issues in abandonment exemptions; and addressing recyclable rate issues including statute of limitation for complaints, procedures for monitoring compliance with statutory rate ceiling, and the handling of reasonableness and discrimination complaints for ferrous shipments. Some of the significant rail cases decided recently include: CSX Corporation's control of SCNO Acquisition, a water carrier, and New York, Susquehanna and Western Railway Corporation's operation under directed and emergency service over the lines of the Delaware and Hudson Railway Company. We have made some progress on clearing the rail rate case docket. Last year at this hearing, it was reported to you that the Commission had 12 rate reasonableness cases; we now have 11 rate reasonableness cases being handled in 8 proceedings.

In the motor carrier area, the Commission has recently dealt with significant issues in the following areas: developing a new permanent and temporary authority licensing application with a view toward simplifying the process for the public and improving agency processing efficiency; modifying motor carrier safety fitness procedures; determining whether transportation is interstate or intrastate commerce; determining appropriate tariffs for shippers' goods; modifying regulations to simplify transfer of operating authority; and finding that carrier efforts to charge higher filed tariffs are unreasonable where lower rates were negotiated but never filed. Some of the more significant motor cases currently before the Commission include the Brink's merger with Loomis Armored and Greyhound Lines bus exit cases in several states.

The Commission has recently adopted regulations allowing rail carriers to file tariffs electronically as an eventual alternative to the filing of printed tariffs. We have also simplified rail tariff standards governing the filing and maintenance of tariffs in lieu of the current, detailed tariff regulations. The Commission stresses that the new tariff standards will permit, but not require, rail tariffs to be prepared, filed, and maintained electronically. The Commission staff will closely monitor the implementation of the rail electronic tariff filings during this transition period for any problems in using, filing, and maintaining electronically filed tariffs to aid the Commission in assessing the viability of electronic tariff filings for all carriers. The reduced cost of technical compliance with the simplified tariff rules should be passed along to the general public.

A significant number of Railroad Accounting Principles Board (RAPB) findings have been adopted by the Commission in the past year. Some of the areas the Commission has acted upon include the adoption of the Entity Principle to provide consolidated railroad and rail-related data for revenue adequacy determinations; adoption of modifications to rules on abandonments and light-density surcharge proceedings to comply with RAPB's cost-of-capital principles; adoption of the Productivity Principle for calculating the Rail Cost Adjustment Factor; and adoption of the Uniform Railroad Costing System (URCS) as the preferred general purpose costing system. These actions conclude implementation of the RAPB findings with the exception of minor programming improvements to URCS.

The Administration is again proposing to further deregulate interstate motor freight, household goods freight forwarder, property broker, bus, and inland waterway carriers and to sunset the Interstate Commerce Commission by October 1, 1990. The remaining rail regulatory functions and associated staff would be transferred to the Departments of Transportation and Justice. The handling of consumer complaints regarding household goods movers would be administered by the Federal Trade Commission.

The resource numbers underlying this legislative proposal are as follows:

$16.075 million and 224 staff-years transfer to DOT

$ 1.394 million and 18 staff-years transfer to Justice

$ 1.547 million and 25 staff-years transfer to FTC

The total resources to be transferred are $19.016 million and 267 staff-years. (These are close to the resources now devoted to rail matters at the Commission.) In addition, $15.364 million is requested to cover severance costs of Commission employees who would not be transferred to other agencies.

The Administration is also requesting an appropriation of $43.777 million and 645 staff-years under current legislation to fund the Commission in the event sunset legislation is not enacted. This request is 54 staff-years fewer than were expended in FY 1989 and reflects the Commission's continuing efforts to make the most efficient use of resources. The Office of Management and Budget recommended a staff level of 56 fewer than the budget originally developed by the Commission last summer in order to adjust staffing for the effects of the original FY 1990 Gramm-Rudman-Hollings sequester and to partially cover funding for the FY 1991 general schedule and executive level pay raise. This staff-year decrease is spread over most of the Bureaus and Offices. I would like to discuss the general merits of some of these reductions.

The Commission currently has a somewhat lower workload level than was projected for FY 1990 and FY 1991. This trend should continue, thus allowing reallocation of staff within the Bureaus and Offices to meet the anticipated workload.

Even though the FY 1991 workload for the Office of the Secretary will remain somewhat consistent with FY 1990, the FY 1991 reduced staff-year level of 76 will be achieved through productivity improvements and consolidation of functions. The

Office anticipates improving the automation of the docket microfilming by the end of this fiscal year with the installation of newer, less staff-intensive equipment. Also, through consolidations of functions in the Public Records Section, especially as they relate to application processing and docket indexing, additional staff-years can be saved in order to handle the Office workload with the requested FY 1991 staff-years.

The General Counsel indicates that his reduced staff-year level from 25 to 23 is sufficient. He expects a decrease in motor rate litigation with the resolution of most of the undercharge cases in the various circuit courts. He also expects a decrease in finance opinion and litigation workload with the end of the Greyhound/Trailways merger generated cases. Also, efficiencies in computerization will provide for additional staff-year savings within the Office.

The Director of the Office of Proceedings believes that a staff-year level of 102 in FY 1991 is adequate in light of workload decreases and productivity improvements in the motor area, especially with the completion of a number of rate bureau investigations and the staff-year savings attributed to the new simplified licensing application.

Staff-year resources devoted to the motor and rail workload in the Bureau of Accounts will decrease to 55 in FY 1991 from the authorized FY 1990 level of 61. The Office is currently handling the same workload level in FY 1990 as anticipated for FY 1991 with the same projected staff-year resources. These resources will be sufficient as most of the staff-intensive rulemaking and advisory workload related to implementing the RAPB findings has been concluded, thereby allowing staff-years to be reallocated to analytical and case-support activities within the Office.

The anticipated FY 1991 workload decreases in the Office of Compliance and Consumer Assistance will accommodate the reduction to 181 staff-years. Although the majority of the staff-year decreases will come from compliance surveys, the Commission will still fulfill its responsibilities in overseeing the surface transportation industries' compliance with transportation statutes and the Commission regulations. Workload and staffing in the motor investigatory and litigation function are also projected to decrease in FY 1991. Some of the investigatory functions are discretionary and some are quick probes of special circumstances to determine if noncompliance exists. Other investigatory workload decreases pertain to insurance investigations which are less time consuming. Ultimately, the Office intends to balance the investigatory/litigation workload with the staff-years requested to ensure compliance with transportation statutes and Commission rules and regulations.

This budget proposal will maintain a staff-year operating level in FY 1991 similar to the on-board employment level currently being projected for the end of FY 1990. I am informed by my staff that sufficient resources are being requested to accommodate projected FY 1991 Commission activities.

In addition, the Commission is requesting reprogramming in most offices to reduce the staff-years and dollar levels contained in the conference report on the FY 1990 Commission appropriation. The staff-year reductions are necessary to adjust for the effects of the final FY 1990 Gramm-Rudman-Hollings sequester and to fund the FY 1990 general schedule and executive level pay increase and the increased Commission share of the recent increase in health benefits premiums. I believe that the reprogramming actions are necessary and in the best interests of the Commission in order to maintain budget and fiscal integrity.

I am happy to answer your questions.

Commissioner Simmons (commenting):

I continue to hold the views expressed in my separate comment in the Commission's January 29, 1990, budget submission.

STATEMENT OF EDWARD J. PHILBIN
CHAIRMAN, INTERSTATE COMMERCE COMMISSION
BEFORE THE SUBCOMMITTEE ON
TRANSPORTATION AND RELATED AGENCIES
HOUSE COMMITTEE ON APPROPRIATIONS

Directed Rail Service

March 14, 1990

Mr. Chairman, Members of the Subcommittee:

Thank you for inviting me here today to discuss the Interstate Commerce Commission's FY 1991 budget request for directed rail service payments.

The Commission has exercised directed rail service authority (49 U.S.C. 11125(a)) on lines without Federal Government reimbursement in a few instances; the most recent occasions have been over the lines of the Delaware and Hudson Railway Company and the Chicago, Missouri and Western Railway Company.

The Commission authorized the New York, Susquehanna and Western Railway Corporation to provide unsubsidized, non-compensated directed service to the Delaware and Hudson shippers between June 23, 1988, and February 13, 1989, due to the Delaware and Hudson Chapter 11 reorganization bankruptcy proceedings. Based on the Trustee's inability to resume operations of the Delaware and Hudson and the expiration of the directed service period, the Commission extended New York, Susquehanna's authority to operate the entire Delaware and Hudson system until March 16, 1990, under a rail emergency provision of the Act (49 U.S.C. 11123(a)). On February 23, 1990, based on New York, Susquehanna's inability to continue to operate the entire Delaware and Hudson system, the Commission authorized a reduced operation under the emergency provisions until March 23, 1990.

In the case of the Chicago, Missouri and Western (CM&W), the Commission in October 1989 authorized the St. Louis Southwestern Railway Company to provide directed service on the Chicago to St. Louis lines pending sale to the Rio Grande Industries. The Atchison, Topeka, and Santa Fe Railway was authorized, in November 1989, to provide uncompensated directed service on the CM&W's east/west line for a period of 60 days until the sale of the line could be consummated. In both cases, directed service allowed continuation of service to the shippers and maintained the integrity of the lines for resale.

The last payments for directed rail service were made for directed service performed over the lines of the Chicago, Rock Island, and Pacific Railway Company between October 15, 1979, and March 23, 1980. The account has been inactive for some time, and currently no funds are available for directed service.

The Commission does not anticipate any subsidized or compensated directed rail service in FY 1990 or FY 1991. Therefore, we have not requested an appropriation of additional funds for this account under current legislation.

I would be happy to answer any questions you may have.

INTRODUCTION

Mr. **Lehman**. If you would like to summarize your opening statement, please proceed. We will then go to the questions.

Mr. **Philbin**. Thank you, Mr. Chairman. I appreciate the opportunity to appear here before you today to testify on our budget. I would just submit my prepared statement for the record with your permission and immediately get into the questioning. As you pointed out, I have been in the office for only a month, and although I feel prepared to testify here today, I brought a number of staff members with me who can supply much greater detail than I can at this point.

I have with me Edward Guthrie, the Managing Director; Bernard Gaillard, Director, Office of Compliance and Consumer Assistance; Anthony Jacobik, Jr., Chief, Budget and Fiscal Office; Aubrey H. Herndon, Assistant to the Director, Bureau of Accounts; Mrs. Jane Mackall, Director, Office of Proceedings; and Robert S. Burk, the General Counsel of the ICC.

With that, sir, I am prepared to handle any questions you might have.

Mr. **Lehman**. Thank you very much. And your statement will be inserted in the record, as you know.

Mr. **Philbin**. Thank you, sir.

ORGANIZATIONAL ISSUES

Mr. **Lehman**. This is not a very fair question; you've only been here a few weeks, but what would be your main initiative as chairman of the ICC? If you could name the three largest problems which need to be addressed, what are these three problems?

Mr. **Philbin**. Mr. Chairman, in the time that I've been at the ICC, I have spent a major portion of my time being briefed by the bureau heads and the office heads to try and get a photograph of how the ICC is presently organized and how the work flow proceeds. I have come to some tentative conclusions about the ICC, and I will share them with you today.

I think that it's extremely necessary that the Commission, composed of five Commissioners, should work in a collegial fashion, not only as required by the statute in those areas, but across the board. I have attempted to do that, and I think with great success. The Commissioners are now assisting me in the administration of the agency by giving me the benefit of their experience and their suggestions, and we will continue to do that.

The Commissioners share the view with me that the role of the ICC is to hand down decisions in strict accordance with the law. Not only the law as it is written, but also the spirit of the law and the intent of Congress in passing the law. We are focusing and placing great emphasis on that approach to our decisions.

In line with that, we are increasing the number of open hearings of the Commission, formal meetings before the public. Last year, if my memory serves me correctly, there were eight formal hearings. In the approximately five weeks that I have been there, we have had four formal hearings. We are going to have a fifth next week, and that trend will continue.

All of the commissioners are concerned with the current work flow internally within the agency. We feel that efficiencies can be achieved by a different work pattern and flow of work than is now going on. We are going to have an administrative meeting next week to flesh out the details of how we think the work should flow in the future, and I personally believe that great efficiencies and increases in productivity can be achieved in that manner.

And finally, within the agency, we have to take a hard look at the resources that we currently have by way of really very professional, dedicated civil servants to assure ourselves that the present allocation of those resources is correct in light of our current statutory duties.

So those are the areas that I would be focusing on, and those are the areas that I, along with my fellow Commissioners, am actively engaged in.

Mr. **Lehman**. You've turned the question of what the problems facing the ICC are to what are the problems facing you as the new chairman. Apparently, as the new chairman you have to try to get a handle on the internal operations of the ICC. And until you do that, you are not in a position to or don't want to state your point of view as to what the three main problems of the agency itself are.

Mr. **Philbin**. That is correct, sir, but in the time I've been there, I have not identified any major insuperable problems. I think all of the problems that I have tentatively identified would lend themselves to rather simple management approaches to solve.

Mr. **Lehman**. That's the way I read your answer.

Mr. **Philbin**. Yes, sir.

STAFF REDUCTION

Mr. **Lehman**. The number of staff at the ICC will continue its dramatic decline in fiscal year 1991, if the Congress agrees to your budget request. You are requesting 645 full-time equivalent positions in fiscal year 1991, which is a 6 percent decrease compared to this year and a 68 percent reduction since 1979. How can the ICC do a credible job in the face of such large and continued personnel reductions?

Mr. **Philbin**. Sir, I would put great emphasis on increases in productivity that may come out of a reorganization and a reallocation of resources. I have talked to the staff on this very issue a number of times. They assure me that the number of people authorized is sufficient to take care of our statutory duties, and my own study leads me to believe that we can probably do the job better than we have been doing it in the past with some truly simple management approaches.

Mr. **Lehman**. Have the ICC's responsibilities decreased by 68 percent since 1979?

Mr. **Philbin**. Well, sir, I can't tell you that it's decreased by 68 percent, but certainly with the passage of the Motor Carrier Act and the Staggers Act, the responsibilities of the ICC have, in fact, decreased in an appreciable fashion.

My present view is that we are doing our statutory duty, and my approach in the future is to make sure we're doing it better.

AUTHORIZED VS. ACTUAL POSITIONS

Mr. Lehman. Last year, it was mentioned that the large number of unfilled ICC positions led OMB to reduce your request for staff. How many authorized positions remain unfilled today, and has that percentage improved over past years?

Mr. Philbin. Mr. Guthrie, could you enlighten us?

Mr. Guthrie. Yes, Mr. Chairman. As of February 11 of this year, our staffing level was at 671, which is 30 less than the unreprogrammed 701 authorization level. That's a 4 percent vacancy rate. For fiscal year 1989, authorized 724, actual usage 699, unfilled 25, again a 4 percent vacancy rate. In 1988, authorized 750, actual usage 712, unfilled 38 positions, for a vacancy rate of 5 percent. For fiscal year 1987, authorized 790, actual usage 732, unfilled 58, for a a vacancy rate of 7 percent.

So the last four respective years, including the first four months of this year, show 7 percent, 5 percent, 4 percent, 4 percent.

[The information follows:]

OMB determined the authorized staff-year level based upon actual staff-year usage in the last year for which final data were available less staff-year reductions to fund the proposed general schedule pay raise through program absorption.

As of February 24, 1990, there were 34 vacant positions. The percentage of unfilled vacancies has decreased from 7.3 percent in FY 1987 to 4.8 percent in FY 1990.

STAFF REDUCTION

Mr. Lehman. Your budget justification states that the reduction of 44 positions can probably be accomplished without RIFs or furloughs. Is this the case? How certain are you?

Mr. Philbin. Mr. Guthrie.

Mr. Guthrie. Yes, sir. I'm more than reasonably sure that it can. That's contingent, of course, on a continuation of the present attrition rate and hiring only of critical vacancies. We're now roughly at an annualized FTE of about 660, which, of course, is only about 15 above the 645. The simple answer is yes, sir.

Mr. Lehman. You mentioned hiring, do you have a hiring problem?

Mr. Guthrie. No, sir.

FTE POSITIONS

Mr. Lehman. For the record, please update the data found on page 805 of last year's hearing record concerning FTE positions.

[The information follows:]

Fiscal year	FTE requested	FTE authorized	FTE usage	FTP employed (close of FY)	Special appts.
1986	923	[1] 889/851	806	702—Sept. 27, 1986	40
1987	800	790	732	706—Sept. 26, 1987	32
1988	748	750	712	678—Sept. 24, 1988	33
1989	724	[2] 724/708	699	675—Sept. 23, 1989	26
1990	701	701		650—Feb. 24, 1990	17

[1] 889 reduced to 851 under Gramm-Rudman-Hollings.

[2] 724 reduced to 708 under reprogramming request.

STAFF TURNOVER

Mr. **Lehman**. What is your annual staff turnover rate, and how does last year compare to the previous years?

Mr. **Guthrie**. Let me give you some raw data for last year, which is probably the most reliable indicator. I could give you the FY 1990 information, but it's usually skewed because we get a lot of retirements early in the year, of course.

But for FY 1989, we entered the year at 709 and exited the year at 701. We had departures of 63, and we hired 53 people. So our total departure rate was almost exactly 9 percent.

Assuming we get that same kind of attrition during the balance of FY 1990, clearly we can handle the situation.

Mr. **Lehman**. Is 9 percent more or less what it's been over the last half a dozen years or so?

Mr. **Guthrie**. It's ball park. We've had anywhere from 7 on up to 12. In fiscal year 1985, of course, we had the furloughs and the budget problems. That year, we had a much higher attrition rate.

Mr. **Lehman**. How do you compare to other DOT related agencies?

Mr. **Guthrie**. The overall government rate, according to data that I have here is 21 percent. And for a similar sister agency, the Federal Highway Administration, 10.5.

Mr. **Lehman**. So you're more or less in the——

Mr. **Guthrie**. Below average, but very similar to a sister agency.

Mr. **Lehman**. For the record, please compare that data to other DOT agencies and organizations.

[The information follows:]

The Commission's annualized FY 1990 separation rate of 13.5 percent compares to the overall Federal Government rate of 21 percent. The Commission's FY 1989 separation rate of 8.9 percent compared to Department of Transportation organizations and agencies follows:

Organization:	*FY 1989 separation rate (percent)*
Federal Aviation Administration	8.7
U.S. Coast Guard	13.9
Federal Highway Administration	10.5
Federal Railroad Administration	12.1
St. Lawrence Seaway Development Corp	6.4
Urban Mass Transit Administration	11.6
National Highway Traffic Safety Administration	9.7
Research and Special Programs Administration	10.6
Office of the Secretary	12.8
Inspector General	14.2
Maritime Administration	9.5
Total Department of Transportation	9.4

OMB PASSBACK

Mr. **Lehman**. OMB reduced your fiscal year 1991 request by 56 staff years and $3.2 million. How did OMB figure these reductions and was their decision based on programmatic or fiscal criteria?

Mr. **Guthrie**. I think the latter, to answer the second half of your question. The methodology employed, as I understand it, is the taking of the original 1990 appropriation, subtracting 5.3 percent for the Gramm-Rudman-Hollings sequestration, and adding in half of the anticipated pay raise in 1991.

Mr. **Lehman**. And you asked for the same level as the previous year? The same level of staff years for 1991 as you did for 1990?

Mr. **Guthrie**. Seven hundred one, if memory serves me, sir.

Mr. **Lehman**. Explain where these reductions would be allocated and what impact it would have on your operations. You can briefly explain that and then in more detail for the record.

Mr. **Guthrie**. The allocation of the cut is roughly across the board. I can read them to you quickly here.

Mr. **Lehman**. Why don't you just put it in the record. Basically you're saying there is no one particular area that these reductions impact?

Mr. **Guthrie**. No, sir. The passback from OMB applied a rough percentage to each office, and the Commission in its vote on the passback did not alter that in any material fashion.

Mr. **Lehman**. Please expand on your answer for the record.

[The information follows:]

The FY 1991 OMB Passback was calculated on the FY 1990 appropriation less the original Gramm-Rudman sequester (5.3%) plus one-half of the January 1991 general schedule and executive level pay raise. This would provide adequate funding for 645 staff-years. The staffing reductions were allocated among the Bureaus and Offices by OMB; dollar savings will occur primarily in personnel compensation due to the decreased staffing level. A majority of the Commission believes that sufficient resources are requested to accommodate projected FY 1991 Commission activities with anticipated procedural modifications, workflow improvements, and productivity improvements.

The staff-year reduction will be allocated uniformly among the Bureaus and Offices and represents a decrease of about 9 percent. The reductions are not expected to have a significant impact on mission accomplishments as the Bureaus and Offices are currently meeting their responsibilities with an on-board strength of 667 (as of February 24, 1990).

COMMISSION OBJECTIVES

Mr. **Lehman**. Mr. Coughlin.

Mr. **Coughlin**. Thank you, Mr. Chairman. I want to join in welcoming the new ICC Chairman, General Philbin. He has had a distinguished career in Government as well as in the private sector, and most recently as a Commissioner of the Federal Maritime Commission. We're glad to have you at the ICC. I know you haven't been on the job very long; however, I know that the Committee and I would appreciate getting your idea or your philosophy and your approach to running the Commission and your thoughts on the work of the Commission.

Mr. **Philbin**. All right, sir. My viewpoint of any independent regulatory agency is that it's a creature of the Congress. It is not a policy making organization, although there are some vague areas in the law where policy judgments have to be made.

My approach to decisions at the ICC as they were at the FMC is strict adherence to the letter of the law, where that provides us with a direction to go in light of the facts with which we're presented. Where the letter of the law is not that clear, I would look to the legislative history to determine the intent of Congress in passing the law and adjust my judgment as well.

I have discussed this approach with my fellow Commissioners, and we are all of one mind on this; that the ICC is not a policy making organization and our decisions have to be directed by the letter of the law, the intent of Congress, and the facts with which we are presented. That's what we are doing.

In light of the Sunshine in Government Act, we all feel that formal hearings are required wherever they will produce an efficient decision. In the time that I have been at the ICC, we have had four formal hearings, open public discussions, oral arguments, and so forth; we're going to have a fifth next week on a major case. That's compared with eight formal hearings last year.

I can assure you that this trend toward more formal hearings and decisions in public is going to continue and accelerate. I think that's all to the good both for the agency and for the members of the industry that we regulate, to the extent that we regulate them.

Mr. COUGHLIN. Would you characterize yourself as a deregulator or a re-regulator?

Mr. PHILBIN. Sir, I've been asked that question before, and I really can't tell you that either one of those terms applies to me. Congress makes the policy by passing the legislation. We carry out the intent of the Congress in administering those statutes. If that turns out to be regulatory or deregulatory, I think is of no moment to the members of the Commission.

We have to do what the law requires. So if our decisions come out one way or the other, titles can be applied to it; but as long as we try to approach our job in a legalistic fashion, I think that we will be serving the Congress and the Commission and the industry best.

I hope that's not an evasive answer. I don't intend it to be.

STATE-OF-THE-INDUSTRY COMMISSION HEARINGS

Mr. COUGHLIN. I understand you're going to hold state-of-the-industry hearings. Why do you think they're needed, and what would you expect to find?

Mr. PHILBIN. We really don't know what we would find by such hearings, but that type of hearing hasn't been held in a number of years by the ICC. The Staggers Act and the Motor Carrier Act rendered such a change in the regulatory environment that the other Commissioners who, in this area are far more experienced than myself, feel that it is time for us to take the time to try and determine just what has the impact of those statutes been on the industry, what the suggestions from the industry are about further regulation or deregulation. It's an attempt to determine the environment in which we are making our decisions, which I think will be all to the good.

We did something very similar at the Federal Maritime Commission as a result of a statutory mandate in the Shipping Act of 1984, and we all felt that it was extremely valuable to us in making our decisions because we had a better feel for what was going on within the industry that we were regulating.

REVENUE ADEQUACY

Mr. COUGHLIN. I understand that the industry hopes to convince the ICC not to use revenue adequacy as a basis for denying rate increases until industry has been through both good and bad years. Is the ICC receptive to that?

Mr. **Philbin**. Mr. Herndon, can you enlighten us on this?

Mr. **Herndon**. Sir, I don't think a conclusion has been reached on that. It's unclear as to exactly how that constraint would be applied.

Mr. **Coughlin**. Last November, the ICC found two railroads, the Norfolk Southern and the Florida East Coast, to be revenue adequate in 1988. It also made tentative findings of revenue adequacy for the Burlington Northern and for the Chicago and North Western.

I guess there's some differences of opinion as to how one calculates railroad income and decides on revenue adequacy. Do you include labor buyouts, asset write downs, legal settlements, and/or the sale of railroad assets in that calculation?

Mr. **Herndon**. What we've done, sir, for the last four or five revenue adequacy decisions is to exclude the restructuring charges which cover labor buyouts, asset write downs, and the increases in liability reserves.

For sales of assets, beginning in 1988, we did include the gain on sales of assets in the revenue adequacy calculation. This was in response to a change in the approach determining income. It was an outgrowth of the Railroad Accounting Principles Board entity principle that required that such asset gains and losses be recognized.

Mr. **Coughlin**. Do you base a determination on a single year's results or a multiple year period?

Mr. **Herndon**. We've always used a single year's results. The Commission considered the multi-year approach most recently in 1986, but concluded that the single-year approach was the most appropriate because you use the most current data.

Mr. **Coughlin**. Thank you, Mr. Chairman. I have additional questions, but I yield at this time.

Mr. **Lehman**. Mr. Wolf? Thank you, Mr. Coughlin.

Mr. **Wolf**. I have no questions.

SUNSET

Mr. **Lehman**. Mr. Philbin, do you support the sunset of the ICC? If so, why? In particular, what aspects should be abolished or turned over, and in what timeframe?

Mr. **Philbin**. Mr. Chairman, as you know, President Bush has proposed an alternative budget which would sunset the ICC and transfer many of its functions to the Department of Transportation, Department of Justice, and the Federal Trade Commission. A total of 267 staff-years totalling about $19 million would be transferred under this alternative.

In addition, the President is urging the repeal of the remaining Federal laws imposing economic regulation on motor carriers, including Federal regulation now administered by the Interstate Commerce Commission.

Although some of these functions would continue to be performed by other agencies, primarily the Department of Transportation, these retained functions would constitute the minimum requirements necessary to ensure that safety and liability concerns are adequately met.

I was not involved in the formulation of this transportation policy, and unfortunately, therefore, I cannot knowledgeably discuss the specifics or the ramifications of the specifics in any great detail. But the fundamental principle with which I agree is that Federal policy should be equitable in its treatment of the various modes and forms of transportation and that no mode should be hampered by unduly burdensome Federal regulations or restrictions.

Therefore, the President's policy calls for reducing unnecessary regulatory burdens on both motor carriers and the railroads. I personally believe that Congress should give great weight to the President's views on national transportation policy, and should also give his proposals serious consideration during the legislative process.

Mr. LEHMAN. Right now, you have no real personal position except to support the principle.

Mr. PHILBIN. Yes, sir.

Mr. LEHMAN. The budget states that ICC sunset legislation will be proposed by October 1, 1990, which would reduce your fiscal year 1991 budget from $44 million to $15 million. Has the Administration formally proposed ICC sunset legislation during the 101st Congress? Does the current Administration plan to do so?

[The information follows:]

The Administration transmitted draft legislation to Congress in the 1st session of this Congress (May 31, 1989). This legislation has not been formally introduced, but a similar measure, H.R. 2211, was introduced by Congressman Joel Hefley on May 3, 1989. Its short title is "Interstate Commerce Commission Sunset Act of 1989", and it is almost identical to legislation introduced in the last Congress, although H.R. 2211 would sunset the agency on October 1, 1991. There have been no hearings held on the measure.

The President indicates in his budget that by October 1, 1990, the legislation will be proposed to sunset the ICC and eliminate economic regulation of the interstate motor freight, household goods freight forwarder, property broker, bus, and water carrier industries. The remaining rail activities would be transferred to the Department of Transportation and the Department of Justice, and consumer complaints regarding household goods movers would be transferred to the Federal Trade Commission.

EMPLOYEE MORALE

Mr. LEHMAN. It seems obvious that declining staff levels and proposed sunset legislation would result in low employee morale. To what extent is declining morale evident from information received from departing employees during exit interviews, and if this is a problem, what can you do?

Mr. PHILBIN. Mr. Chairman, I have been informed that there was a morale problem because of the ongoing discussions about sunsetting legislation and deregulation of the various modes. And that's understandable, certainly, at the lower levels of the ICC staff.

I have also been told very recently that morale has started to rise appreciably. I can't tell you what the reasons are, but I would speculate that with the new administration and new chairman that people are taking a more optimistic viewpoint about their professional futures.

Perhaps Mr. Guthrie has specifics on exit interviews.

Mr. **Guthrie**. I really have little to add to that. It's a difficult thing to measure in the best of circumstances. Clearly we had some real problems in the early eighties when our budget was coming down dramatically and we found ourselves in a RIF and furlough posture in 1985. But in recent years, I suspect it's much as we'd see elsewhere in town.

Mr. **Lehman**. Can you measure the effect of the proposed sunset on morale? The looming possible sunset—can you measure that impact on morale?

Mr. **Philbin**. I would say, sir, and it's only speculation, it, of course, must have some negative effect on the morale of the staff, to hear that there are proposals to sunset an agency in which they have worked for years. But I couldn't quantify that for you in any way.

Mr. **Lehman**. It would be hard to quantify.

Mr. **Philbin**. I think it would be very hard to quantify. But as I said, I have indications that whatever the number is, wherever the morale is on a scale of one to ten, that it's now going up. I will do everything I can to keep that trend going.

Mr. **Lehman**. One of the best measures of morale in most agencies and industries is absenteeism and sick leave. For the record, would you give for the last five or six years the rates of absenteeism and sick leave, as, like you say, a possible quantification of morale?

Mr. **Philbin**. Yes, sir, we have those numbers. We will supply them for the record.

[The information follows:]

ABSENTEEISM AND SICK LEAVE USAGE

	Leave year [1]			
	1988	1989 [2]	1990 [3]	1991 [4]
Absenteeism (nonpay hours)	19,381	20,866	12,025	11,700
Sick Leave Usage (hours)	53,792	56,056	58,572	56,990
Staff-Year Usage (fiscal year) [4]	712	699	663	645

[1] Leave projected upon actual leave-year usage and staff-year usage as of March 10, 1990.

[2] 1989 consisted of 27 pay periods, not the usual 26.

[3] Projection.

[4] Leave based on leave year of January 1 through December 31. Staff-year usage based on fiscal year of October 1 through September 30.

Mr. **Lehman**. Mr. DeLay, do you have any questions at this time?

Mr. **DeLay**. Mr. Chairman, I have a lot of questions and I'll do it by round.

Mr. **Lehman**. Mr. Coughlin and Mr. Wolf—I've already yielded to them, so at this time you are welcome to ask some questions.

TRUCKING RATES

Mr. **DeLay**. Hello, Mr. Chairman, it's nice to meet you. I read an article on airplanes in the newspaper and I thought I had saved the article and we've been desperately looking for it for the last couple of days. Some comments concerned me greatly, And I wanted to talk a little bit about some quotes from you and some of your fellow commissioners that greatly concern me.

In my opinion, the Motor Carrier Act of 1980 is an unqualified success. There are some problems, but prices generally have dropped, services have improved, competition has increased, and importantly, the dreaded service to small towns being shut off has not been realized. That service to small towns has continued.

However, the comments made by you and some of your commissioners about going back—and I'm paraphrasing, I apologize, I wish I had the article in the paper—about going back in and reviewing rates. I inferred by the article that the ICC might get involved again in setting rates. One comment by one of your commissioners was that the ICC's business was to provide—I didn't know the Government provided—but the ICC's business was to provide a profitable trucking industry.

Do you know the article to which I'm referring?

Mr. PHILBIN. No, sir. I'm totally unfamiliar with it, but quite frankly, whatever the context of the comments, the sense of what you're saying is not the sense that I identify amongst the Commissioners of the ICC and the conversations I have had with them on these subjects. Admittedly, I'm the new boy on the block without great detailed expertise, but some of the other Commissioners are extremely experienced, especially in the trucking area. I refer primarily to Vice Chairman Phillips, who was involved in the drafting of the legislation. I do not detect any interest on the part of those Commissioners, either out of legal considerations or philosophical considerations, to follow that road.

Now, we have in the last few weeks had a formal hearing in which the issues of the rate bureaus came up, and the alleged problem of collective rate making followed by independent actions by the members of the collective rate making bodies to institute those rates which are agreed upon and which the Commission might have and, in fact, did decide to investigate. It was not a question of any desire to start setting tariffs again or rates. It was a question about the propriety of the procedure that was being used and perhaps a misuse of the statutory scheme that allowed them to have rate making bureaus. That was the question in that case.

Mr. DELAY. That pretty well explains it. I happen to have personal experience with one of your Commissioners, Ed Emmett. I served with him in the State legislature; he and I have over the years worked very diligently to try to deregulate trucking in Texas. I might just point out to the Committee a study in 1985 found that it cost $612 to ship a truckload of laundry detergent 240 miles within Texas from Dallas to Houston yet shipping the same load from Dallas to Tulsa, a distance of 275 miles, only cost $375. Texans, because of over-regulation in Texas, are not realizing the total benefit of the Motor Carrier Act of 1980.

And my crack staff has just pulled out Mr. Emmett's quote, and he's quoted as saying, "For better or worse, discounting is getting out of hand. We can't let the trucking industry perform like lemmings and go over the cliff." That kind of statement is what greatly concerned me.

Mr. PHILBIN. I heard him make that statement, but it was in the context of the rate bureaus and the procedures that were being used. Ed Emmett is not in favor of setting rates.

Mr. DeLay. Me either. I tried to call him and I couldn't find him, and I'm sure now he'll call me.

Mr. Philbin. I'll make sure he does.

Mr. DeLay. And we'll have a discussion. But Ed and I are very close and good friends, we were in the same class that came into the legislature, and additionally, he ran the group that I put together in Texas called TEXAID, a group of shippers trying to deregulate trucking.

He's a great friend and I knew that this statement had to be pulled out of context and wasn't reflecting the true sentiment of the ICC.

Mr. Philbin. That is correct. I might also point out, sir, that the State regulation of trucking that you've pointed out and some of the horror stories is one of the intrinsic concerns in the President's National Transportation Policy with regard to further deregulation of the trucking industry. The spotty record of the States in regulation, some strong, some not so strong, is a major concern to the Department of Transportation; and it's a concern of ours, not in an official sense, but certainly we're aware of it and we observe the effects of it.

NATIONAL TRANSPORTATION POLICY

Mr. DeLay. I apologize for being late. I have another Subcommittee holding hearings down below us and I was there earlier. Consequently, I walked in right as you were answering the questions in which I am interested. I thought I heard you say that you support the Secretary and the President's strategy that was unveiled last week?

Mr. Philbin. As I pointed out, I was not involved in the formulation of the policy. I am aware of the fundamental principle behind the policy. I certainly support that fundamental principle, which is in essence to eliminate unnecessary regulation on any of the modes. Certainly that was the thrust behind the Motor Carrier Act of 1980 and the Staggers Act as well, and I can't quibble with that policy. That makes good sense to me.

I think the arguments will come up with the details of how we implement that fundamental principle.

FILING REQUIREMENTS

Mr. DeLay. The ICC still imposes—and granted a lot of it's dictated by law—but still imposes a paperwork burden on truckers. This burden is particularly overwhelming for small trucking companies that are trying to build a business.

The number of new applications for approval of prices filed each year since partial deregulation has tripled. In 1980, 400,000 applications were filed compared with 1.2 million in 1986. Filing requirements are confusing, expensive and a real disincentive for truckers to enter new markets or carry additional types of goods.

What actions are the ICC undertaking in order to lessen this paperwork burden and what's your justification for such a burden?

Mr. Philbin. Mrs. Mackall is the Director of our Office of Proceedings, sir, and has more information on that subject than I.

Mr. DeLay. Thank you.

Mrs. **Mackall**. I think there are two areas that are of chief concern. The first is tariff filing, which is the one you are talking about. The Commission last year again went back and tried to simplify its tariff rules so they basically stand for the proposition that if it's clear and it's English and legible, it will be accepted. We're hoping that will work.

Also in connection with tariffs, the Commission is looking at electronic tariff filing. That is already in place for railroads; it's not for motor carriers, at the request of the motor carriers. They are working on it within the industry.

On the other side is the filing of the operating rights applications. We know that that's a burden for small companies. We did not want it to stand in the way of new entry, and the Commission just a couple of months ago adopted a new application form that is, in effect, a check-the-box form. All the instructions are integrated in the form. It should make things much easier for the applicants and for the Commission, and I think that the application fee is only about $200.

Mr. **DeLay**. That's very encouraging. I applaud you for that. An argument against trucking deregulation was that small communities would receive inferior service, if any at all. I have seen studies that prove service to small communities is at least as good as before 1980. Mr. Chairman, what's your opinion on the small community issue?

Mr. **Philbin**. I have heard the same issue raised. In my limited experience, it seems to me that that's always a fear of the small communities, but I haven't seen any hard evidence that that has actually occurred. Does anybody else have anything to add?

TRUCKING DEREGULATION

Mr. **DeLay**. I've seen a study that proved that trucking deregulation had saved American consumers over $56 billion by 1987. Likewise, savings from railroad deregulation topped $20 billion. Do you think that the American consumers would receive even greater economic benefits from the complete competitive deregulation of these industries, even on a local State basis?

Mr. **Philbin**. I think one could speculate that there would be benefits, monetary benefits, but how much they would be I couldn't tell you, and in what sectors they would fall I couldn't tell you either. As I said, I have not had the benefit of looking at the studies which underlie the President's National Transportation Policy, but I'm sure those data must be in there, some calculations.

Mr. **DeLay**. Doesn't it logically follow, that if on an interstate basis the consumer has saved this amount of money, if you further deregulated the States, additional money would be saved?

Mr. **Philbin**. I would speculate that that would occur.

Mr. **DeLay**. Do you have any evidence within the ICC that might give us the information that would substantiate the fact that the savings are there and that the savings would be there if States like Texas would continue to deregulate?

Mr. **Philbin**. I will certainly have the staff examine our records in any State that it might have and have it submitted for the record, with your permission.

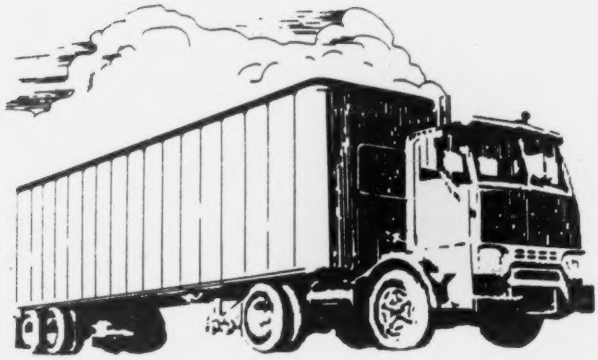
[The information follows:]

The administration's National Transportation Policy, in calling for further economic deregulation of motor carriers, noted that, at present, more than 40 State governments impose economic regulations on motor carriers operating in the State. These laws are often in conflict with Federal economic regulatory goals, and are frequently inconsistent from one State to the next, creating a confusing and overlapping array of administrative procedures for carriers to meet.

The Commission has not assessed the burden associated with remaining intrastate economic regulation of motor carriers. Nevertheless, we are familiar with a growing number of studies indicating that this burden is substantial. And we have acted on quite a few petitions from shippers and some carriers requesting that we declare a particular motor carrier movement within a State to be a component of an interstate movement so that the shipper could enjoy the full benefits of interstate rates and service. Presumably, those interstate rates and services are superior.

In a recently released staff study, the Commission's Office of Transportation Analysis concluded, in part, that more rigid intrastate regulation of motor carriers often shelters local firms from competition and fosters inefficiencies, and that less restrictive economic regulation at the State level would tend to lower rate levels and focus carriers' efforts on providing efficient, innovative, and responsive service. (See Staff Report No. 12, Highlights of Activity in the Property Motor Carrier Industry, Office of Transportation Analysis, Interstate Commerce Commission, January 1990, pp. 34–36, copy attached).

STAFF REPORT NO. 12
HIGHLIGHTS OF ACTIVITY IN THE PROPERTY MOTOR CARRIER INDUSTRY



Office of Transportation Analysis
Interstate Commerce Commission
January 1990

PREFACE

This report is one in a series of periodic reports on the motor carrier industry. Like previous versions (No. 11 was published in August 1987), it is based on numerous information sources: ICC financial reports; reports, publications, and articles by trade media; statistics from the Department of Transportation and the Department of Commerce; and, individuals within the industry, government, and academia.

The purpose of this report is to provide a current overview of the motor carrier industry, with an emphasis on both quantitative and qualitative changes since the Motor Carrier Act of 1980.

The report was prepared by Thomas M. McNamara (Industry Analyst) and Michael A. Redisch (Chief, Section of Research and Analysis) in the Commission's Office of Transportation Analysis (OTA), and it relies in part upon data from the Commission's Bureau of Traffic and Bureau of Accounts. This OTA report has not been reviewed or approved by the Commission. It is provided for information only and should not be viewed as an expression of formal Commission policy.

John F. Hennigan Jr.

John F. Hennigan, Jr.
Director
Office of Transportation Analysis

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STAFF REPORT NO. 12
HIGHLIGHTS OF ACTIVITY IN THE PROPERTY MOTOR CARRIER INDUSTRY

INTRODUCTION

Motor carriers were tightly regulated from 1935 until 1980; freight railroads from 1887 to 1980, and cargo airlines from 1938 until 1977. For motor carriers, it was the Motor Carrier Act of 1980 that dramatically changed how the industry was regulated. Changes were seen in the process of determining which routes could be served, what commodities could be carried, and what prices could be charged. Once closely refereed by the Interstate Commerce Commission, these economic decisions have been left increasingly to individual carriers, guided by marketplace conditions.

This vast reduction in ICC trucking regulation has spurred a tremendous increase in competition, both within the regulated interstate motor carrier sector and between ICC regulated motor carriers and competing sectors of the freight transport market. The total number of ICC regulated carriers has grown; service has improved; and real rates have generally declined. Some carriers have done extremely well; others have failed.

The purpose of this report is to provide a current overview of the motor carrier industry, emphasizing how competitive the industry has grown since 1980. The report is divided into three major sections:

1. Revenue, Entry And Related Statistics.
2. More Evidence Of Competition.
3. Ongoing Legislative And Regulatory Issues.

Brief mention of terminology and data limitations is warranted here. Carriers regulated by the ICC comprise only a portion of the motor freight sector of the U.S. economy. In terms of revenues, this portion is approximately 25 percent of the total spent by companies to have their freight moved by truck ($65 B/$240 B, est.). Exempt, intrastate, and local carriage are part of the balance. In addition, numerous companies (shippers) pay their own employees to pick up, deliver, and haul freight, engaging in a motor freight sub-sector termed private carriage.

Motor carrier industry analysts typically refer to "the industry" as those carriers engaged in for-hire transportation. Moreover, while not strictly limited to the ICC for-hire sector, the term often implies this $65 billion ICC regulated group. A complete definition of "for-hire" would, of course, extend to those carriers hauling intrastate for-hire, as well as local carriers and carriers that move exempt commodities. These carriers haul for a price but simply are not required to report. The "motor freight sector" encompasses all categories of for-hire transportation, as well as private carriage. In 1988, it accounted for approximately $240 billion. Throughout this report, the entire motor freight sector and specific subsets of the for-hire industry will be identified.

Regarding data limitations, it should be noted that the ICC formally gathers data only on that subset it regulates, and that since 1980 the reporting for this group has been reduced. For example, while more than 40,000 carriers fall under ICC aegis, only Class I and some Class II carriers report annual statistics (financial and operating). Because ICC carriers comprise only part of the motor freight sector, and given the reduced reporting for this subset, the nature and quality of motor carrier data vary considerably. It is true that reliable financial data on some for-hire carriers are readily available, especially for larger ones tracked by investment firms, brokerage houses, etc. Similarly, operational data, e.g. tons, ton-miles, employees, are also available for selected carrier groups. However, revenue and operations data estimates for all for-hire carriers or for the entire "motor freight sector," are strictly that--estimates--and readers should be alerted to these data limitations.*

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* Railroad and airline industry data, in contrast, present fewer limitations. The $30 billion rail freight industry is essentially defined by the fewer than 20 Class I railroad systems, and rather exhaustive data are available for these carriers. More limited, but still useable, data exist for the remaining 5-10 percent of the industry represented by Class II and III carriers. Airline industry data, although less comprehensive and readily available today than during the forty years preceding deregulation in 1978, are also easier to obtain than motor carrier data; about 90 percent of the $40 billion domestic air passenger market is represented by data from 9 carriers, and over 70 percent of the $11 billion air cargo market is represented by 6 carriers.

SECTION I: REVENUES, ENTRY AND RELATED STATISTICS.

In 1988, motor carriers continued to dominate the revenue share of a U.S. freight transport market valued at an estimated $312 billion in 1988 in terms of actual receipts and imputed payments. In 1988, about $240 billion (77 percent) was spent on motor carrier freight movements, with the balance spent on air, rail, pipeline and water transport. Motor carrier shares of the total 6 billion tons and 2.8 trillion ton-miles remained about 40 percent and 25 percent, reflecting the fact that motor carrier shipments are relatively higher valued and on average travel shorter distances than traffic of most competing modes. Air cargo is valued highest and transported farthest. This relationship is shown in Table 1.

TABLE 1
CHARACTERISTICS OF THE MOTOR CARRIER FREIGHT SECTOR FOR 1988
(billions)

Measure	Motor Carriers	Total Freight Sector	Motor Carrier %
Tons	2.6	6.1	40
Ton-miles	704	2,793	25
Revenues	$240	$312	77

SOURCES: Eno Foundation; Authors' estimates.

Revenues. About one fourth of the estimated $240 billion motor freight (1988) industry is represented by ICC authorized carriers. Exempt movements, intrastate and local carriers, as well as the imputed revenues of private carriage make up the rest. Within the ICC authorized sector, an estimated 39,000 individual carriers generated $65 billion in 1988 freight revenues. Of that, about $50 billion or 77 percent went to 889

Class I carriers required to submit ICC reports (Table 2):

TABLE 2
1988 ICC Authorized Carrier Sector[1]

Carrier Type	Revenue Threshold	Carriers	Total Revenue
Class I	> $5 million	889	$ 50 billion
Class II	$1-5 million	1,179	3 billion
Class III	< $1 million	37,182	12 billion
TOTALS	---	39,250	$ 65 billion

[1] Thresholds have been indexed in recent years; 1988 limits are $5.95 million, between $5.95 and $1.19 million, and under $1.19 million. In addition to carriers shown, 359 Class I and Class II carriers were relieved of reporting requirements.

SOURCES: ICC; Eno Foundation; Authors' estimates.

The Class I carriers dominated the ICC regulated sector, with the 100 largest carriers generating 60 percent of the $50 billion Class I revenues. And, while modal and market sector distinctions continue to blur in the motor freight transport business, traditional subsectors may still be used to differentiate among broad traffic categories (Table 3):

TABLE 3
1988 Top 100 Class I Carrier Revenues

Industry Sector	Carriers	1988 Revenues
Small Package	UPS	$ 9.1 billion
Primarily LTL	39 Carriers	12.4 billion
TL, General Freight	20 Carriers	3.0 billion
TL, Other *	40 Carrier	6.0 billion
TOTALS	100 Carriers	$ 30.5 billion

* Primarily household goods (HG), motor vehicle (MV), and chemical tank (CT).

SOURCES: ICC, "Large Class I Motor Carriers of Property Selected Earnings Data," and Commercial Carrier Journal, July 1989.

The ICC defines less-than-truckload (LTL) shipments as less than 10,000 lbs., with larger shipments referred to as truckload

(TL). Federal law now requires states to allow maximum gross vehicle weights--gvw includes the weight of the vehicle and its freight--of at least 80,000 lbs. on their portions of the Federal Interstate Highway System; actual TL movements typically contain about 40,000 lbs. of freight.

In the small package and LTL sectors, several carriers continue to capture major shares of the market. The private sector small package business--although experiencing growing competition from air freight carriers, traditional LTL carriers, and some bus package express service--is still largely defined by UPS revenues. The U.S. Postal Service remains the public sector alternative. Intercity LTL traffic in the U.S. is dominated by larger ICC authorized carriers. Among the ICC's top 100 list, 39 carriers haul predominantly LTL shipments; these generated $12.4 billion in 1988 revenues, with just 10 carriers accounting for 70 percent. Yellow, Consolidated Freightways, and Roadway top this group, each with revenues over $1.6 billion; together with their affiliates, each had revenues near or above $2 billion. While the successful larger carriers increased their share of national LTL revenues over the past decade, these gains were generally being achieved by expansion into new territories rather than through expansion and increased concentration within their previous markets. Growth in this fashion has intensified competition by increasing the number of efficient carriers available to shippers.

Revenues in the ICC regulated TL sector, also intensely competitive, are more widely distributed. Those among the ICC top 100 carriers that haul mostly TL shipments generated $9 billion in 1988 in general freight plus other revenues. Among these, only two carriers had revenues over $400 million, with another fifteen carriers between $200-400 million. Of these seventeen carriers, there were six haulers of general freight, six household goods carriers, three motor vehicle haulers, and two bulk chemical haulers. Leaders in the respective TL markets were: J.B. Hunt, with spectacular recent growth in general freight; North American Van Lines; Anchor Motor Freight; and chemical hauler Matlack, Inc. (Appendix Table 1).

Expenses, Labor. For carriers that haul predominantly LTL general freight, labor costs can exceed 50 percent of total operating costs. The ICC's general freight carrier data base--dominated by LTL firms--showed compensation for all employees in 1987 at $11.2 billion out of $22.3 billion in total operating expenses ("Transport Statistics in the United States, Motor Carriers Part 2," for year ended 12/31/87). In contrast, for carriers whose traffic is predominantly truckload, especially TL general freight, labor costs run about 35 percent of total operating expenses. The LTL carriers' terminal facility employees and the 20-40 percent higher driver wage scale for their largely unionized employees produce this significant difference in labor cost. However, wages adjusted for inflation for both LTL and TL carrier groups have declined throughout the 1980's.

To the extent the much-publicized driver shortage exists, it remains a shortage at remuneration levels carriers are willing to pay. A generally tight labor supply throughout the U.S. economy forces carriers to bid wages up with the potential risk of pricing their service out of the market. Unlike the railroad industry, in which employment has steadily declined from about 500,000 to 250,000 since 1980, driver and truck terminal employment in the U.S. has grown--from 1.2 million in 1980 to over 1.5 million in 1989 in the for-hire sector. Owner operators and workers engaged in private carriage would probably bring this total to more than 2 million.

The 1981-82 recession caused trucking industry tonnage, ton-miles, and employment to drop. Since then, more than 80 months of uninterrupted economic growth has strengthened freight transport demand. Railroads met post recession demand in part by more efficiently utilizing their plant and equipment; in the process, they also expanded profit margins through worker attrition coupled with widespread buy out of surplus employees. In contrast, although increased truck size and weight limits have had some impact, additional capacity in trucking comes largely from adding new vehicles or driving existing units further; essentially both approaches require more drivers. After the Motor Carrier Act of 1980 freed motor carriers from inefficient restrictions on route and commodity authority, they were initially able to meet demand with fewer vehicles, drivers, and route miles. Having now internalized most of these efficiency gains, carriers face the prospect of meeting demand growth with an ever tighter labor supply.

Carriers combat higher labor expense numerous ways. These include: use of sleeper cabs to cut driver lodging costs; more performance related bonuses in lieu of salary; and various efforts to improve the work environment without direct wage increases, such as routings that minimize driver overnights away from home. In addition, the industry seeks increased driver supply by tha lowering of the Class 3 driver license age requirement from 21 to 18.

Other means of combatting labor expense involve "double breasting" and the use of multi-tier wage scales. So-called double breasted operations refer to carriers that operate both union and non-union subsidiaries. The practice is more common among predominantly LTL firms struggling to meet TL competition. Unable to match truckload price cutting without a non-union TL operation, unionized LTL carriers have set up non-union affiliates. Even this measure has failed to keep many larger LTL carriers' truckload operations competitive with specialized TL carriers. "Two-tier" or "multi-tier" wage structures pay lower wages for new hires; these have become common practice among unionized LTL carriers.

The intense competition, which has forced TL carriers to employ almost exclusively non-union drivers, has also pressured individual LTL firms to bargain separately from the National Master Freight Agreement (MFA). The present 3-year agreement, for example, was joined by only 34 carriers, down from 600 in 1970. The current MFA which became effective April 1, 1988, reflects both tight driver supply conditions and extreme cost pressure on the industry. It accelerates favorable treatment of new hires by paying entry wages of 85 percent of standard and reaching full standard pay in only 18 months. The 1985-88 agreement provided first year pay at 70% of standard and reached

100% after 3 years. UPS's separate agreement with the Teamsters is up for renewal in 1990. With the company's extremely high seasonal peak needs from holiday gift sending, the agreement is expected to continue featuring special pay and work rules for part-time and temporary employees.

Fuel Expense. For TL carriers, line haul expenses dominate the cost structure. Fuel, including fuel taxes, is typically 15-20 percent of total expenses. (With diesel fuel at $1.00/gallon and consumption at 6 mpg, fuel costs would run about $0.17 per mile; for a carrier with total costs of $.95 per vehicle mile, fuel would be 18 percent.) For LTL carriers, additional terminals, sorting and distribution systems can drive total costs per vehicle mile two to four times TL levels; as a percentage of total LTL costs fuel is therefore far less. For the ICC's predominantly LTL carrier data set, diesel fuel plus state and federal fuel taxes came to just under 5 percent of 1987 total operating expenses. Full-year percentages for 1988 and 1989 are presumed similar.

An ICC diesel fuel index--of full service cash price per gallon at selected but not scientifically sampled truck stops--showed price per gallon at about $0.65 in early 1979, between $1.22 and $1.34 in 1985, and between $1.05 and $1.14 through August 1989. Large carriers purchase fuel in bulk, substantially lowering per gallon cost.

Reports of OPEC overproduction and other evidence of ample supplies appeared throughout 1989, indicating downward price pressure. However, reports of stronger than expected growth in worldwide demand for petroleum fuels have also appeared, suggesting offsetting pressures. Thus, dramatic variations from 1989 prices would not be expected in 1990, given this apparent prevalence of offsetting forces.

Insurance Expense. Motor carrier vehicle insurance costs are typically less than 5 percent of total expenses. For the ICC carrier set, vehicle insurance costs averaged 2.3 percent, which reflects high deductibles and some self-insurance. Realignment within carrier underwriting markets in 1985-86 caused premiums to jump; in some sectors of the trucking industry, coverage was practically unavailable. By year end 1988, the so-called insurance crisis had abated with coverage widely available and some signs of rate softening as well.

Entry. As competition forces further consolidation and realignment among the larger carriers, new entry by smaller firms continues to pressure the entire industry, especially in the movement of truckload freight. The number of Class I & II ICC authorized carriers decreased 29 percent from 3,435 in 1980 to 2,427 in 1988. However, Class III carriers grew 255 percent from 14,610 in 1980 to more than 37,000 at the end of 1988 and to more than 39,500 by October 1989. (See detailed annual figures in Appendix Table 2.)

New carrier entry figures, however, only partially convey the extent of competitive pressure motor carriers now face. Figures on contract carriage, 48-state authority, and brokers tell a more complete picture. *Contract authority* allows carriers to tailor specific service standards to individual shippers, and the fact that contract rates need not be filed at the ICC often forces carriers to engage in aggressive rate discounting to secure shipper business. Although contract authority was once a small percentage of total permits, as of October 1989 regulated carriers held 29,907 grants of common authority and 28,938 grants of contract authority, with many carriers holding both types of authority. Similarly, whereas 48-state authority was held only by handfuls of carriers prior to 1980, some 9,600 grants were in effect at 10/31/89.

Finally, the number of *brokers* has also increased dramatically. Prior to 1980, fewer than 100 brokers were licensed to "arrange" for the movement of freight by motor carriers. Today there are over 6,000 actively licensed brokers, with over 9,000 permits outstanding. (Approximately one-third of the active brokers also hold motor carrier operating authority.) Brokers serve as middle agents aggressively matching shipper demands with available carrier supply. They place powerful competitive pressures on all freight carriers. Essentially full-time marketing staffs, these firms constantly book freight reservations. Motor carriers without price or service offerings that meet these brokers' needs must aggressively establish and continue satisfying their own customer bases, or otherwise risk hauling empty vehicles. Surface freight forwarders, deregulated in 1986, also provide further competition to this market.

Motor Carrier Failures. Frequently cited figures on motor carrier failure are taken from Dun & Bradstreet estimates for firm failure and include companies in voluntary or involuntary bankruptcy; firms that closed with losses to creditors; and firms involved in court proceedings such as receivership and reorganization. The Dun & Bradstreet motor carrier failure figures exclude owner operators but cover companies in three different SIC categories:

SIC 4212 -- local pickup and delivery;
SIC 4213 -- intercity trucking, including intrastate, and;
SIC 4214 -- local transportation and storage companies.

During the six year period, 1983-88, total failures among these three SIC categories ranged from about 1,200 to 1,600 carriers per year. As a rate per 10,000 firms, the figures ranged from approximately 150 to 190; in contrast, failure rates for all U.S. firms ranged only from about 100 to 120 failures per 10,000 firms.

Among the total failures occurring during the 1983-88 period, exactly how many were ICC authorized carriers is not known. However, during a three year period from mid 1980 until April 1983, an American Trucking Associations (ATA) study found that 232 ICC Class I, II, and III carriers had ceased operating, and that another 68 were either operating under Chapter 11 or had reduced or suspended operations. Dun & Bradstreet figures do not precisely track that same 33-month period, but their figure of 3,180 total failures for the 48-month period 1980 through 1983 would suggest a pro-rata estimate of 2,186 failures for all three SIC categories during those 33 months. Combining these ATA and D&B figures would indicate perhaps 14 percent (300/2,186) were ICC authorized carriers, with less than half of those being Class I and II carriers.*

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* See: Marilyn W. Klein, "Five Years After The Motor Carrier Act Of 1980: Motor Carrier Failures And Successes," U.S. DOT, September 1989; K. Eric Wolfe, "The Downside Risk: An Analysis Of Local And Regional Railroad Service Failures," AAR, 1988; Ronald Roth, "An Overview And Focus On Recent Times: The Motor Carrier Industry In Transition--Impacts And Implications,"

Vehicle Sales. Because the Motor Carrier Act of 1980 freed motor carriers from the costs of inefficient route and commodity authority, the number of trucks needed to serve a given level of freight demand declined dramatically. In addition, the Surface Transportation Assistance Act of 1982 permitted carriers to haul larger and heavier loads, further increasing the capacity of the existing fleet. Due largely to these two pieces of legislation, annual sales of trucks to motor carriers during the 1980's have generally been below pre-1980 peak sales figures. (Appendix Table 3.)

Class 8 is the heaviest vehicle class, and it refers to tractors with gross vehicle weight over 33,000 lbs. Sales in this so-called "heavy duty truck" category amount to about 1% of the entire U.S. vehicle market of approximately 15 million annual vehicle sales. In 1988, sales of Class 8 vehicles reached 147,872 units, up 14 percent over 1987. Class 7 sales in 1988 dropped 1 percent below 1987 levels--from 88,172 to 87,231 units--although overall sales in this vehicle class have generally exceeded their pre-1980 levels. Class 6 vehicle sales, which include household goods moving vans, reached 48,000 units in 1988; like Class 8 vehicles, however, sales in this class have generally been down since 1980. Both Class 7 and Class 6 vehicles are considered "medium-duty" trucks.

Through August 1989, both Class 8 and Class 7 sales figures were close to their 1988 sales pace, but Class 8 vehicle sales

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ATA, October 1979; and Brinkley Garner, "Highlights Of Activity In The Property Motor Carrier Industry, Staff Report No. 11," ICC, August 1987.

dropped sharply in the Fall below year-earlier totals. The 1989 sales pace for Class 6 vehicles was off considerably, with sales through September off 27 percent from the year before.

Motor Carrier Efficiency And The U.S. Economy. Since 1980, more efficient motor freight transport has played an important role in improving the performance of the U.S. economy as a whole. One source estimates that in the period 1971-1980, total business logistics costs equalled about 14 percent of the country's GNP. Today, only 10 to 11 percent of the nation's $5 trillion GNP is spent on logistics costs, with transport costs at roughly 6 percent, inventory holding costs at 4 percent, and administrative expenses at 0.4 percent. Excluding the impact of lower interest rates, the U.S. economy now saves as much as $60 billion each year on total logistics outlays: $30 billion less than in 1971-80 to store inventory and about $30 billion less in freight payments going to more efficiently operated truck and rail carriers. Motor carriers account for over $25 billion of this $30 billion annual freight payment savings. (See Robert V. Delaney, "Seminar on Road Transport Deregulation," 1988.)

SECTION II. MORE EVIDENCE OF COMPETITION

Competition in the entire freight transport sector remains fierce. Motor carriers were tightly regulated from 1935 until 1980; freight railroads from 1887 to 1980, and cargo airlines from 1938 to 1977. Although varying degrees of regulation remain in each industry, interstate truckers--upon receiving broad operating authority and subject to tariff filing rules--are essentially free to determine the scope of their pricing policies and geographic territories. Coupled with regulatory freedoms granted railroads and air cargo companies, motor carrier competition now extends across modes and markets in an intense struggle for profitable freight transport. In 1989, for example, TL carriers battled railroad double-stacks, spine cars, and other rail service improvements in the hotly contested fight for general freight. LTL carriers continued aggressively expanding into each other's territory while ceding truckload business to TL specialists, some smaller shipment business to package carriers, and some traditional LTL business to third party consolidators. And finally, the small package business continued heating up as UPS faced further encroachment from overnight specialist Federal Express and growing competition from the package express subsidiary of LTL giant Roadway.

Distinctions among which modes carry what freight in the U.S. have blurred. Regulatory definitions, corporate ownership, and modal operations themselves have changed. On the freight spectrum's one end, water carriers haul containers and bulk cargoes that might otherwise travel by rail or sometimes, truck. On the other end, facsimile machines "carry" letters that otherwise would travel as mail or cargo. In between, trucks compete fiercely with railroads, other trucks, the domestic marketing arms of ocean carriers, air carriers, and with various third parties utilizing combinations of modes for nearly all types of freight. Lines denoting the traditional freight markets are disappearing, and modal distinctions grow less important. Truckload, LTL, and small package markets all show signs that increasingly sophisticated companies are competing across the spectrum of freight transport.

Increased size and weight limits, continued entry of new carriers, numerous grants of 48 state authority, increasing use of contract authority, the deregulation of surface freight forwarders, and the explosive growth in the number of licensed brokers help demonstrate the intense competition presently affecting motor carriers. Besides the numbers, however, qualitative changes continue to occur and perhaps equally demonstrate the competitive turbulence underway in motor freight transport. This section highlights some of the qualitative changes affecting motor carrier competition. A general portrayal of competitive conditions is supplemented with specific examples recently reported in news journals and the trade press.

Truckload and Container Freight. Truckers have competed generally with railroads for 70 years and in the "piggyback" sector for over 30 years. However, this competition has increased dramatically since deregulation in 1980 and was stepped up even more with the mid-1980's legislation allowing longer, wider and more flexible truck trailers and with the introduction of "double stack" and other innovative rail cars.

In the late 1950's, railroads introduced modern piggyback service when they placed ocean bound containers on rail flat cars (COFC). A second version of piggyback traffic followed when railroads placed loaded truck trailers on similar types of flatcars (TOFC). In 1984, ocean carrier American President Lines (APL) contracted with railroads to haul its own trains of specially designed, deep-well flatcars that stacked a second container on top the first. Called "double-stacks," each car is generally made up of five separate wells (platforms) and typically holds up to ten full-sized containers. For over a decade, the fastest growing business in the rail sector has been intermodal traffic: COFC and TOFC. The proliferation of double stacks now adds to the competition for truckload freight.

More than 20 percent of all rail traffic is now intermodal: about 5 million of the 22 million annual Class I originated carloads. Until the advent of double stacks, TOFC represented about 60 percent of intermodal, COFC about 40 percent. As use of double stacks increases, the COFC percentage is approaching 45 percent.

When double stack service began in 1984, the traffic was primarily Asian Pacific originated freight travelling from the U.S. west coast towards Chicago, St. Louis, and Gulf ports; weekly trains initially numbered fewer than 10. Most containers returned westbound empty. By 1987, 57 weekly trains were operating to and from the west coast alone, and more than 85 were reported by mid 1989. Double-stack service is now available in nearly every major freight corridor in the U.S., with five or six companies providing weekly service in at least seven different corridors (e.g., Los Angeles-Houston, Chicago-New York). Dedicated double-stack service has approached 1,000,000 containers annually (U.S. Department of Agriculture, Office of Transportation, "Moving Agricultural Products By Double Stack Trains: An Update," July 1989). One railroad, the Santa Fe, reports that 40 percent of its rail revenues now come from "intermodal" traffic and that the rail portion of carefully coordinated West Coast to New York shipments can be accomplished in 80 hours (Journal of Commerce, "Rail Carriers Expanding Intermodal Role," Bill Mongelluzzo, 5/26/89). And, while LA to New York in under 3 1/2 days may still be far from the norm, it is indicative of evolving rail efficiencies.

One key to double-stacks growth is the pressure wielded by ocean carriers. At least eleven companies contracting for weekly or more frequent trains to and from the U.S. west coast are ocean carriers involved in the intense global battle for freight: 2 American companies, 6 Japanese, 1 Korean, 1 Taiwan, 1 Danish (U.S. DOA Report). Long recognized as more sophisticated in worldwide freight transport, ocean carriers often control ultimate delivery of their containerized freight and force railroads to bid for hauling the double-stacks. Marketing divisions of ocean carriers compete with railroads to fill available double-stack backhaul space. The ocean carrier firm American President Companies specializes in moves involving rail through its subsidiary, National Piggyback, as does the ocean carrier, Sea Land, itself a subsidiary of CSX corporation. As further evidence of these carriers' growing role, 1989 saw American President Companies arrange a totally non-ocean, double stack shipment from Chicago to Nogales, Mexico.

Motor-rail and motor-rail-ocean competition is evidenced by two other rail technologies. Roadrailer, while to date of only limited acceptance, utilizes vehicles that operate with rubber tires on highways and steel wheels on rail. Tested by a number of carriers, Roadrailer's largest specific application is for movement of auto parts in the Detroit-Atlanta market. Norfolk Southern has incorporated Roadrailer service into its complete service offerings.

Use of railroad "spine" cars is also growing (and appears more widespread than Roadrailer). These are welded units similar to sets of double-stack platforms. Although these cars are not recessed, and therefore do not permit double-stacking, they carry many different sizes of containers. As with double-stacks, the welded "spines" permit cornering flexibility without the damage associated with individual railcars, such as the risk of being jarred in rail humping yards. CSX Corp.'s CSL Intermodal, for example, recently purchased 100 spine cars. The September 1989 announcement touted the cars' ride quality, flexibility, fuel efficiency, and practicality, i.e., where double stack clearance problems exist (Baltimore Sun, "CSX to Use Special Rail Cars on Baltimore-Chicago Routes," John H. Gormley, Jr., 9/29/89).

Additionally, handling capacity at inland rail yards has improved dramatically. Although declining from about 1,500 in 1984 to 400 in 1989, most yards are larger and over 60 percent are now mechanized (U.S. DOA report). APC's American President Intermodal facilities at Chicago and, on a smaller scale at Woodhaven, MI, exemplify aggressive positioning in this aspect of intermodal freight movement (Traffic World, "API Opens Detroit Yard," 12/5/88, p. 12).

Major improvements in ocean port handling facilities--with direct ocean to rail connections--are also providing rail inroads to trucking markets. For example, the first west coast on-dock railyard in Southern California is under construction in Long Beach. This construction closely follows that of an improved LA-Long Beach rail transfer yard built 4 miles from the harbor area in the early 1980's, and it may be followed by more on-dock facilities either at Long Beach or LA (Journal of Commerce, "Rail Carriers Expanding Intermodal Role," Bill Mongelluzzo, 5/26/89).

Finally, the spread of double-stacks to shorter-haul corridors is still further evidence of rail inroads into trucking markets. This 5-year old technology application has dramatically proven its competitive worth in long-haul corridors, e.g., Seattle-Chicago, LA-Houston, etc. Nonetheless, shorter-haul markets such as New Orleans-Memphis, Dallas-Houston, Chicago-Columbus, and Kansas City-St. Louis have increasingly become candidates for double-stack service (U.S. DOA report).

This formidable, intermodal competition posed by railroads and by the ocean carriers and other third parties who fill rail-hauled container space is not going unchallenged by motor carriers. Several developments are worth noting. First is the efficiency--and attendant growth--being achieved by some of the more innovative and successful truckload firms. Operating ratios below .90 and vehicle costs below 90 cents per vehicle mile are not unusual for these carriers. J.B. Hunt, a so-called advanced truckload freight carrier (ATLF) operator, is referred to by one author as having built the equivalent of a rubber tire railroad across the United States. Hunt began operating in 1979 and annual revenues have soared to over $500 million. No doubt much of that growth comes at the expense of less efficient TL operators, but with average lengths of haul now exceeding 1,100 miles, the company is an obvious head-to-head competitor with many long-haul railroads. Carriers like Hunt invariably pursue these low-cost/high-service operating strategies with non-union, employee driven vehicles that frequently incorporate team drivers.

A recently released survey (Temple, Barker & Sloane, 1989) on shipper attitudes towards truck and rail concludes that truckers continue to win the service war over railroads. The survey gave higher competitive marks to motor carriers over railroads in 15 of 16 service related measures. The measures included such categories as transit time and reliability, customer service, etc. Further, the study found that while most shippers believed present rail transit times were at least as good or better than in recent years, over 50 percent felt reliability had not improved or had even worsened. Targeted shippers were those who had sent at least 10 percent of their annual non-LTL shipments by rail during any of the last three years. Whether these shippers were primarily TL tenders of freight is not clear, but the service comparison suggests a direct comparing of rail vs. TL motor carrier service. Whatever the study's shortcomings, it strongly suggests railroads have substantial ground to cover in the rail vs. truck service battle (Ira Rosenfeld, Traffic World, "New Shipper Survey Showcases Railroads' Plight, Direction," 11/13/89, p. 33, citing recently released Temple, Barker & Sloane study).

Another factor favoring trucks is the ability to haul increasingly heavy loads. This ability was enhanced by the Surface Freight Transportation Assistance Act of 1982, which raised the minimum weight that states must permit on their portions of the interstate system to 80,000 lbs. Moreover, widespread federal and state approval to carrier even heavier loads seems increasingly likely. Seven states already allow twin 48 foot trailers, at least on a limited basis; and, although these limited situations also carry time of day restrictions, such vehicle combinations can now reach 127,000 lbs. gvw. The seven states which presently permit twin 48's are Colorado, Idaho, South Dakota, Indiana (on its toll road), Kansas (turnpike), Massachusetts (turnpike) and New York (thruway).

The productivity improvements that would result from heavier truck loads are considered substantial. Sounding the alarm for the railroads, a Norfolk Southern spokesman recently claimed that if a majority of states accepted twin 48 ft. trailers, railroad intermodal traffic would be jeopardized. He further noted that TL costs could drop to about 54 cents per mile, down from an average 93 cents per mile--a level already achieved with more typical double vehicle configurations that incorporate at least one 28 ft. trailer (Daily Traffic World, 11/13/89).

How the motor-rail battle for truckload freight will continue to unfold is not certain. However, neither motor carriers nor railroads are without sophisticated weapons in their competitive arsenals. And, these weapons appear to be undergoing constant improvement.

LTL Sector. Competition in the motor carrier LTL sector is also widespread, even though it is not directly spearheaded by railroads. And, even though revenues and market shares of the largest LTL carriers have grown since deregulation, these are growing shares of essentially a shrinking pie. Moreover, competition among the remaining LTL carriers shows little sign of abating.

The LTL sector is a small portion of the total freight sector: perhaps 10 percent of the estimated $240 billion in 1988 revenues. More telling than the relatively small size of this market, however, is the fact that LTL carrier business is being eroded by competition from TL carriers, third party consolidators, and small package carriers. As discussed earlier (section on *labor expense*), after passage of the Motor Carrier Act of 1980 LTL carriers without non-union subsidiaries to handle truckload freight quickly lost such business to lower cost, non-union TL carriers. They continue to lose this traffic. In these instances, while LTL shipments per se are not going to the TL carriers, an important source of LTL carrier revenue is.

LTL carrier revenues have also been lost to brokers and other third parties who match and consolidate larger LTL-sized shipments with available linehaul capacity: motor carrier hauled trailers and rail hauled TOFC/COFC. These third parties essentially mimic an LTL carrier operation, but with far lower costs: 1) arrange for non-union pick-up (or gathering) of freight; 2) sort and match shipments at warehouses using non-union labor; 3) contract with TL carriers, with ocean carriers that have empty back-haul containers going by railroad, etc.; 4) again sort with low cost operations; and 5) deliver with low-cost, non-union motor transport. Competition from these ubiquitous third parties is fierce.

Traditional LTL carriers are also losing shipments to small package operators. The mainstay of LTL carrier traffic is essentially 1,000-10,000 lbs. shipments, but not all its traffic is that big. UPS, which long accepted shipments up to 50 lbs.

and more recently up to 70 lbs., competes for these smaller LTL shipments. Similarly, when Federal Express raised its tariff to 150 lbs. it was positioned for low-weight LTL shipments. Moreover, with the package carriers' high service national networks, they often meet shipper demands for service premiums that even the more sophisticated LTL network carriers cannot provide.

Pressure from these package carriers appears ready to intensify. It is true that package express drivers who hand-deliver mail pouches or wheel 100 lb. boxes on steel freight dollies to office workers embody a substantially different operating strategy than forklifting 5,000 lb. pallets into and out of manufacturers' shipping docks. Nonetheless, both types of operation require national route networks, sophisticated computer and shipment tracking technology, and breakbulk terminals. The package companies have these. Their stepping up to the larger, heavier freight is a logical outgrowth of their current operations; it is a step made increasingly imperative by the competition and maturation occurring in their own sectors of the freight market.

Exactly when or if full-scale entry into LTL markets by package companies will occur is hard to gauge. Similarly, the precise mix of aircraft and trucking fleet that companies such as UPS and Federal Express would use to compete against an established LTL carrier is not yet clear. Nonetheless, developments are already occurring. One recent article cites analysts' claims that huge amounts of traditional LTL freight are already going to carriers like UPS and Federal Express. And while it is not clear what size these captured shipments are, UPS is identified as explicitly targeting--on a test basis--heavier LTL freight. Further, Federal Express lifted its 150 lbs. limit in late 1989. (Journal of Commerce, "Traffic Facing Stiff Competition," Leo Abruzzese, 11/13/89, citing Transportation Executive Update, "Competition for LTL Freight Intensifies," Irwin H. Silberman, September/October 1989, pp. 18-19.)

Removal of the weight limit by Federal Express does reflect its purchase of Flying Tigers, a heavy air cargo carrier. And, although the company has announced the use of surface vehicles to support these heavier air shipments, Federal's operations appear still targeted at time sensitive, heavy cargo that has traditionally gone by air. However uncertain the positioning by UPS, Federal and other large network operators may be, the gravitation towards traditional LTL markets nonetheless seems likely to continue. One financial analyst recently noted UPS's March 1989 announcement that it had obtained ICC 48-state authority without size or weight limits. He also remarks that "In singling out the LTL carriers as prospective targets of their competitive strategies, UPS and Federal Express have come out of the closet--and competitive forces are likely to intensify still further." (Transportation Executive Update, Silberman).

Finally, regarding the entry of new, nationwide network carriers into the traditional LTL market, it should be noted that international competitors are likely to play an increasing role. Multi-modal, international freight companies are already serving segments of the U.S. freight market: TNT, JAL, Air France, and others in the overnight, small package, and air cargo end of the market. Numerous foreign ocean carriers are in the heavy end of the freight market. Certainly the former group have the potential to enter the LTL sector much in the way Federal Express and UPS do. Moreover, globalization of freight movement, the opening of the European common market to U.S. carriers, current reciprocity with Japanese air carriers, and other factors all suggest that foreign competition in the U.S. freight market may soon be as prevalent as in today's automobile industry.

Fierce competition in the LTL motor freight sector is also being waged by the top carriers themselves. With the ICC's lifting of geographic and commodity restrictions per the Motor Carrier Act of 1980, the opportunity to provide nationwide service became a competitive obligation. The big have gotten bigger, but largely as a matter of survival. Of the 40 largest carriers serving in 1979, only 15 are now operating (Journal of Commerce, "Truckers Facing Stiff Competition," Leo Abruzzese, 11/13/89). While many were acquired by the larger carriers, many also failed outright.

Revenue growth among these top LTL companies is less impressive than first glance might suggest. First, part of the growth for these largest carriers has come from acquiring smaller regional carriers, not strictly from capturing new freight. Second, because of the tremendous cost squeeze in the industry, some carriers have been forced to form non-union subsidiaries to continue growing. Consolidated Freightways, for example, has formed five regional LTL subsidiaries, to augment its long-haul CF Motor Freight subsidiary operations. Most of these Con-way operations are non-union and generate nearly $500 million of the company's $2 billion in revenue. ("Truckers Facing Stiff Competition," Abruzzese.)

Further reason to view top LTL carrier revenue growth as competitively benign is the fact that bottom line profits, as a percentage of total revenue, have dropped in the industry since 1979. The ATA reports that profits have been off 30% to 40% over the whole post-deregulation period (ATA, "An Overview and Focus on Recent Trends," Ronald Roth, October 1989). Finally, in late 1989, reports of rate discounting were again widespread. Recently, some have even warned that the extremely aggressive rate cutting which prevailed in 1987 might reoccur. With slow growth forecasts being made for the U.S economy as a whole in 1990, likelihood of such rate competition is no doubt increasing.

Small Package And Overnight Mail. As TL carriers and LTL carriers battle in their respective freight markets, competition in the small package and overnight mail sectors also rages. In this premium end of the freight sector, small package delivery has been dominated for 60 years by $9 billion giant United Parcel Service (UPS). For decades, the UPS basic service was two to three day delivery of packages weighing up to 50 lbs. In the early 1970's, Federal Express introduced overnight delivery service. Initially, the two companies were not viewed as head-to-head competitors. Federal Express' dramatic revenue growth to more than $3 billion in about 10 years, and nearly $4 billion in 1988 came primarily from guaranteed overnight delivery of mail--letters, documents, and so forth. Federal Express charged about $10 per shipment, capturing the premium that shippers willingly paid for secure, next day delivery of time sensitive material.

In the mid-1980's, small package and overnight mail markets grew more alike. UPS entered overnight service, and the Federal Express tariff expanded to 150 lb. shipments, although still retaining the high premium and the promise of next and second day service. In 1989, Federal Express removed its weight limit on U.S. freight, utilizing recently acquired Flying Tigers to carry heavy air cargo shipments.

The 1980's also saw other traditional air cargo companies join the overnight fray: Airborne, DHL, Purolator, and Emery Air Freight, which later bought Purolator. Intercity bus package express made inroads by tapping the capacity of unfilled baggage storage compartments; some operators even offered same day service. LTL giant Consolidated Freightways (CF) entered the overnight business by buying troubled Emery. And, a second LTL giant, Roadway Services Inc., now offers small package service, through its subsidiary Roadway Package Systems, in competition with UPS.

Carriers Respond With Innovation. Competition throughout the freight business has spurred development and adoption of new technology, as well as numerous marketing, management, and operating innovations. Although varying in sophistication, each new development pressures truckers and their competitors to develop and innovate. Motor carriers have responded with measures such as computerization of rates and satellite tracking of vehicles. Computerized rates permit rapid adjustment of bids on traffic, as well as on-line shipper access to these rates. (Regulated common-carrier truckers must still undergo the time and expense of filing paper tariffs at the ICC's headquarters building in Washington, D.C.)

Satellite tracking systems improve vehicle performance monitoring and load factor management. A growing number of trucking companies are adopting this technology, as more and more telecommunication/electronics firms compete for the chance to equip motor carrier fleets. Swift Transportation (through its Cooper Motor Lines subsidiary) and Roadway Express (through subsidiary Robert's Express) are among the carriers; Motorola and Sony are among the electronics equipment suppliers. By using geosynchronous satellites, electronic triangulation can automatically locate vehicles. In addition, the satellite transmission of basic radio signals permits driver voice communication with dispatch centers at essentially unlimited distances, whereas local mobile dispatch systems are limited by the availability of ground transmission towers (Journal of Commerce, "Satellite Improves Roberts Express Service," 7/12/89; also Journal of Commerce, "Traffic Briefs: Swift Signs Contract For Motorola Service," 10/31/89).

The industry has also shown swift adaptability to varying trailer sizes, especially since larger size and weight limits were permitted by the Surface Transportation Assistance Act of 1982. And, with fuel costs such an important component of total costs (especially TL) and still vulnerable to foreign supply conditions, carriers continue to improve fuel mileage through better vehicle aerodynamics and engine technology. Non-technology approaches to fuel conservation are also pursued, primarily through reduced vehicle speed and greater driving consistency.

Innovations in marketing, management and operations have also keyed survival in the intensely competitive motor carrier field. Being forced to choose increasingly precise corporate strategies has further prodded innovation and fueled competition. Computerization, satellite tracking, and 48-state marketing presence support national networks of first-tier carriers. Second tier companies tend to position themselves in operational, commodity specific, or other market niches. Guaranteed delivery times are typical of these strategies, including one carrier's pledge to deliver within 24 "clock hours" inside its market area.

Shipper Power. Variables in the motor carrier competition equation necessarily include the growing power of shippers. As intense as competition during the early and mid 1980's was, there is an impression that shippers were still adjusting to the notion of having choice. Today, shippers know they have choices. They know that the best carriers can offer extremely high levels of service and that growth in the economy is slowing. They have come to expect domestic service industries, like freight transport companies, to be as responsive to shipper needs as they themselves must be in their own highly competitive product markets.

Technological and other innovations certainly illustrate that shippers have choices, by virtue of the fact carriers are battling to attract and retain shippers' business. There is also more direct evidence of emerging shipper power. One example is the trend toward so-called "core carrier" groups. Whereas shippers, especially larger companies, once utilized the transport service of as many as 200 carriers, today the same firms have trimmed their circle of candidates to as few as six or eight carriers. Procter and Gamble, for example, has reduced its carrier group from about 200 to 25 (Chicago Tribune, "Fewer And Fewer Operators Can Keep On Trucking," Flynn McRoberts, 9/3/89.) This trend allows shippers to reduce overhead expenses associated with carrier negotiations. Further, it enables shippers to specify high standards of performance, and--to their liking--it often forces carriers into intense bidding wars just to remain in the shipper's core group.

As the pressure to export intensifies for U.S. domestic firms, shippers are also expecting more from carriers in the way of international customs expertise. Similarly, shippers expect carriers to have the ability to at least arrange door-to-door service throughout the world, even if that carrier is not the only company physically handling segments of the shipment.

SECTION III. ONGOING LEGISLATIVE AND REGULATORY ISSUES

Several unresolved legislative and regulatory issues have major implications for motor carrier bottom lines. Among these, safety, user charges, vehicle emissions, and intrastate entry-exit regulations bear watching. Another, the so-called "undercharge" issue, has generated extensive publicity but should soon be significantly resolved by administrative action or legislation. One other issue, electronic tariff filing for motor carriers, is receiving increased public attention due to the general shipper interest in electronic data interchange and the more immediate interest in electronic tariffs by the railroad industry, a keen truck competitor.

Safety. Safety may be the foremost issue affecting the industry today. Safety enforcement--such as suspension of drivers' licenses, ordering unsafe vehicles out of service for repairs, and the possibility of random drug testing of drivers--effectively reduces available driver supply and can increase carrier operating costs. Safety policy debates center on whether certain categories of vehicle operations or drivers have statistically different safety records than other groups, and which measures are the most efficient and equitable means of achieving safety improvement. Assertions have been made that exempt or otherwise unregulated carriage poses greater safety risk, yet no firm link between economic regulation and safety has yet been established. Data compiled by the Federal Highway Administration, for example, show that fatal accident rates involving heavy trucks rose from 1980 to 1981, but were lower than 1980 in each year after 1981, and were a full 15 percent lower in 1986.

A number of safety improvement measures have been adopted recently by the U.S. Department of Transportation, the agency that enforces interstate motor carrier safety standards. These include eliminating multiple driver licenses to prevent drivers with suspended licenses from operating under alternate licensing; dramatically increasing random driver and vehicle inspections; and extending DOT safety regulations to truck operations within commercial zones. Various other measures have been proposed, including installation of devices on vehicles to monitor speed, driver hours, and other safety related factors.

User Charges. User charges and truck size and weight limits remain critical to motor carriers. The industry maintains that its excise tax payments on fuel, tires, and heavy equipment adequately cover truckers' attributable highway wear and tear. Further, they seek legislative approval to carry heavier, larger loads. Others disagree. Stakes in this debate are high. Heavy trucks typically carry 40,000 lbs. of freight, and the ability to carry heavier loads could dramatically increase operating economies.

- *Emissions*. Environmental issues throughout the U.S. and global economies are receiving renewed scrutiny. Reducing vehicle emissions is included. To the extent legislation targets auto and truck emissions--through cleaner fuel, emission control equipment, higher fuel prices, or some combination--most measures would raise carrier costs. Likelihood of passage of such legislation soon is unclear but has been increased by recently proposed amendments to the Clean Air Act.

State Regulation. The Interstate Commerce Act grants exclusive regulatory jurisdiction to the ICC when freight movements within states are part of interstate shipments. Flexible interstate carrier regulation heightens competition and puts pressure on intrastate rates and practices. In contrast, more rigid intrastate regulation often shelters local firms from competition and sustains higher margins while fostering inefficiencies. Less restrictive economic regulation at the state level would tend to lower rate levels and focus carriers' efforts on providing efficient, innovative and responsive service.

Despite these potential gains to shippers, some states still closely regulate operating authority and rates within their borders. California, Texas, and Michigan, for example, are often cited as having very restrictive state regulations. These are large states with substantial amounts of intrastate motor freight transport, and existing holders of state authority feel they have much to lose under greater competition.

In Texas, for example, the powerful Railroad Commission, which regulates rail, trucking, oil and gas, still requires applicants for new or expanded operating authority to show that service in a target market is inadequate. Further, as at the ICC before 1980, the burden of proof is still on applicants to demonstrate that proposed service will improve the "public convenience and necessity," rather than force incumbents to prove it will not. (Traffic World, "The Great Deregulation Debate Is Alive And Well in Texas and California," 10/30/89, pp. 18-19.)

Elsewhere, one Minnesota shipper (Red Line Medical Supply) is reportedly pursuing various strategies to avoid what it deems as high intrastate rates in California, Texas, Illinois and Kentucky. To avoid high Kentucky rates, the company warehouses products just across the state line and ships interstate moves as needed. To beat high rates in other states, the company substitutes single TL shipments whenever practical for multiple LTL shipments or it facilitates continuous through shipment at interstate rates. (The Journal of Commerce, "Managing Traffic," Greg Johnson, 8/18/89).

Nonetheless, proposals are underway in various states that would at least partially relax economic regulations and increase reliance on competitive market factors. In Texas, the Railroad

Commission in 1989 considered a 40 percent zone of rate making freedom. Not surprisingly, shipper interests such as the Texas Association to Improve Distribution (TEX-AID) support this and other pro-deregulation measures. (Traffic Management, July 1989). In California, the sate PUC also recently examined--although it has delayed enactment--of a zone of rate making freedom. This zone would permit rate increases at any time--not to exceed a 10 percent cumulative annual increase--and decreases at any time as long rates are not lowered beneath carrier-specific variable costs. Given the apparent support of shippers and the protest by California truckers, this legislation's ratemaking zone and other measures presumably have substantial potential competitive impact. The Regular Common Carrier Newsletter reports: "Although proponents of deregulation may view the recent California Public Utilities Commission (PUC) decision to deregulate intrastate for-hire trucking rates and allow a zone of rate reasonableness as favorable to their interests, regulated carriers will find a number of important protections are still retained." (RCC Newsletter, 10/30/89. See also, Traffic World, 11/13/89, p. 39.)

Undercharge Issue. The undercharge issue involves differences between filed common carrier tariff rates filed with the ICC and rates subsequently negotiated between carriers and shippers but not properly filed. From 1986 through 1989, auditors for financially troubled or failed carriers filed suit asserting various shippers received transportation at rates contained in filed tariffs but failed to submit payment for the service at filed tariff rates. The shippers have claimed that lower rates were negotiated in good faith with their carriers, even though they were never filed at the ICC by the carrier, and that these lower payments represent obligations fulfilled. In today's intensely competitive freight business, the fact that discounts from stated tariffs pervade the industry is widely accepted. Touted by carrier marketing staffs as necessary selling tools, discounts are viewed as promoting competition. Nevertheless, the Interstate Commerce Act requires filing of all common carrier rates in tariffs at the ICC and traditionally accepted only ICC filed tariffs as the legal charge for service. Aware of widespread discounting and that some carriers are not filing the discounted tariff, the ICC in recent undercharge cases has sided with shippers. It has held that these actions by carriers or their creditors demanding payment of the "undercharge" payment when a rate was negotiated but not properly filed are unreasonable practices. Legislation has been proposed which would support the ICC's position and resolve this issue.

Electronic Tariff Filing. Whether motor carriers can or should file tariffs electronically with the ICC is also an issue which has recently gained visibility. In Ex Parte 444, decided January 30, 1989, the Commission permitted all rail and motor carriers subject to ICC jurisdiction to utilize electronic tariff filing (ETF) for purposes of filing with the Commission. That decision was stayed, however, because of concerns expressed by motor carriers and some of their shippers. In October 1989, the Commission partially lifted the stay by authorizing railroads to file tariffs electronically. For a one-year period, those railroads utilizing ETF must also continue to submit printed tariffs.

At this time, motor carriers are neither permitted nor required to adopt ETF for ICC purposes, and exactly when ETF will become an industry standard--or requirement--is not known. The growing use of motor contract rates, which require no filing at the Commission, would certainly tend to reduce momentum towards industry use of ETF. On the other hand, the use of electronic data transmission throughout the freight transport business is growing: not only for invoicing and shipment tracking purposes, but also for actual tariff filing in international aviation (cargo, passengers) and now recently for railroads. Moreover, the ICC has demonstrated its receptiveness to the idea of electronic tariffs. This growing use of electronic data transmission plus the Commission's favorable view towards applying this technology in tariff filing indicate that motor carrier adoption of ETF faces few remaining hurdles.

CONCLUDING OBSERVATIONS: LONG-TERM OUTLOOK FOR MOTOR CARRIERS

Motor carriers will remain the dominant mode of U.S. freight transport throughout the 1990's, although numerous individual companies will fail and the industry may lose some market share to railroads. And while efficiency improvements will be achieved less readily than in the 1980's, further gains will be made.

Downside pressures will persist. Operating strategies premised on integrated networks or service niches will eventually mature. As impressive as some future gains for innovative firms will be, undoubtedly they will be rapidly duplicated by industry peers. In addition, issues such as safety, roadway user charges, and vehicle emissions may challenge carriers' ability to absorb potential costs involved.

However, upside potential for both individual carriers and the total motor freight sector also exists. Despite the fact that interstate movements of motor carriers have largely been freed from price and entry regulation, added efficiency would result from eliminating these restrictions at the state level. At the Federal level, removing antitrust immunity and residual economic regulations such as ICC tariff filing and case-by-case entry approval could also achieve further gains. Better corporate integration of marketing and operations information should also improve carrier performance. Shippers may soon have electronic access to central ordering and dispatch services, and by merely indicating shipment weight, size, and time and price sensitivity, a spectrum of carrier/service options would be offered. Advances in major carrier networks--motor, air, rail, and ocean alike--suggest such arrangements are imminent. Competition will hasten this process.

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APPENDIX TABLE 1
LEADING CARRIER REVENUES IN 1988
($ millions)

LTL General Freight			TL General Freight, And Other					
Carrier	1988	1987	Carrier	1988	1987	Carrier	1988	1987
Yellow Freight	1,992	1,741	J.B. Hunt	393	296	North American(HG)	818	791
Consolidated Fr.	1,749	1,555	Schneider National	304	229	United Van Ln.(HG)	440	419
Roadway Express	1,694	1,596	Ryder Distribution	252	206	Allied Van Ln.(HG)	384	383
Overnite	638	543	Signal Delivery	249	232	Mayflower (HG)	314	312
ABF Freight	617	526	Ranger Trptn.	210	NA	Anchor (MV)	272	286
Carolina Freight	532	473	Builders Transport	204	185	Complete (MV)	247	235
P*I*E Nationwide	500	590	Werner Enterprises	191	139	Matlack (CT)	228	204
ANR Freight	468	406	Crete Carriers	96	89	Chem. Leaman (CT)	214	202
Preston Trucking	441	382	Gemini Trptn.	89	75	Bekins Van Ln.(HG)	213	217
Central Trans.	310	282	Penns.Truck Lines	89	93	Atlas Van Ln.(HG)	201	185
						Allied Systems(MV)	201	193
TOTALS	8,941	8,094		2,077	1,754		3,532	3,427

HG=Household Goods
MV=Motor Vehicles
CT=Chemical Tank
NA: not available; 1988 figure used for 1987 column total.

Notes: 1) Carriers listed include top 10 LTL general frt., top 10 TL general frt., and other carriers with revenues exceeding $200 million.
2) Figures do not represent total holding company revenues. For example, Consolidated Freightways parent company, including four regional carriers, had 1988 revenues over $2 billion.

SOURCES: ICC "Large Class I Motor Carriers Of Property Selected Earnings Data," and Commercial Carrier Journal, July 1989.

APPENDIX TABLE 2
NUMBER OF ICC-REGULATED MOTOR CARRIERS, FREIGHT FORWARDERS, AND BROKERS

Category	1988	1987	1986	1985	1984	1983	1982	1981	1980	1979	1978
Class I	889	856	947	1,013	1,088	1,139	1,144	1,031	947	992	1,045
Class II	1,179	1,266	1,387	1,489	1,554	1,631	2,139	2,293	2,164	2,754	2,929
Class III	37,182	35,505	33,903	30,337	26,370	24,411	22,059	18,563	14,610	13,337	12,900
Classes I & II Relieved From Reporting *	359	394	711	444	469	336	380	383	324		
Freight Forwarders	553	711	420	265	261	231	241	244	193	184	180
Property Brokers **	6,280	6,045	5,669	4,196	2,368	1,460	821	474	198	65	NA
TOTALS	46,442	44,777	43,037	37,744	32,110	29,208	26,784	22,988	18,436	17,332	17,054

* Selected carriers, such as those in the armored truck delivery service and those operating in commercial zones, are relieved from filing annual reports.

** Approximately 1/3 of all presently active brokers also hold motor carrier operating authority.

SOURCE: Interstate Commerce Commission: Systems Development Office, and Annual Reports.

APPENDIX TABLE 3
U.S. DOMESTIC RETAIL TRUCK SALES*
1978-1989

Year	Class 8	Class 7	Class 6	Classes 1-5
1978	161,608	41,032	155,616	3,414,910
1979	173,294	49,404	145,927	2,641,242
1980	116,792	58,052	88,657	1,737,168
1981	99,700	50,123	70,344	1,589,021
1982	75,777	59,897	40,357	1,969,916
1983	81,647	56,171	42,052	2,478,399
1984	137,693	73,926	50,010	3,213,787
1985	133,581	91,551	43,124	3,634,161
1986	111,814	88,173	39,651	3,681,770
1987	130,260	88,172	38,331	3,797,975
1988	147,872	87,231	48,000	4,224,956
1989**	99,945	56,660	23,517	NA

Class 8: > 33,000 lbs. gross vehicle weight (gvw).
Class 7: 26,001 lbs. - 33,000 lbs. gvw.
Class 6: 19,501 lbs. - 26,000 lbs. gvw.

* All figures above are "retail" and represent sales to consumers; "U.S." means sold in the United States; "domestic" means manufactured in North America. Trucks manufactured outside North America but sold in the United States are not included in the above figures. When such "U.S. import" figures are added to the above "U.S. domestic" figures, the resulting sum is Total U.S. Retail Truck Sales. In 1988, Class 8 Total U.S. Retail Truck Sales equalled 148,361 vehicles.

** 1989 figures represent sales through August 1989.

SOURCES: Eno Foundation, "Transportation In America," and MVMA "Motor Vehicle Facts & Figures '89."

ICC SUNSET

Mr. **DeLay**. Okay. I have a statement for the record, Mr. Chairman, and then I'll yield. Thank you, Mr. Chairman.

The ICC, created in 1887, is the nation's oldest regulatory agency. The partial deregulation of the trucking and railroad industry has reduced the ICC's functions considerably. Its employees have been cut back from 2,000 to about 700 in the past ten years. Elimination of the ICC would both strongly signal that the era of comprehensive and anti-competitive economic regulation is over and make it more difficult for re-regulation to be revived.

The Motor Carrier Act of 1980 was an unqualified success: prices have dropped, service has improved, competition has increased, and service to small towns has continued. However, some remaining ICC controls persist, particularly serious paperwork burdens. Truckers must still file applications and forms with the ICC before offering a new service, discontinuing a service, raising/reducing rates, or merging with another company. The paperwork volume is staggering. State regulation is still a serious problem as well. In 1988, 40 states still regulated trucking. Thus, the residents of many states have been denied the benefits of deregulation unless their shipments happen to cross a state boundary. For example, a study (1985) found that it cost $612 to ship a truckload of laundry detergent the 243 miles within Texas from Dallas to Houston, yet shipping the same load from Dallas to Tulsa, a distance of 275 miles, only cost $375. Although there have been calls to re-regulate trucking in the name of "safety," I have not seen any substantial evidence to prove that safety has been compromised because of deregulation. A better approach to safety might be through increased random drug and alcohol testing.

I support language in the President's budget which states: "Legislation will be proposed to sunset the ICC and to deregulate completely the interstate motor freight, household goods freight forwarder, property broker, bus and water carrier industries by October 1, 1990. The enactment of this legislation would eliminate a major portion of ICC's workload. The remaining rail activities would be transferred to DOJ and DOT. Handling of consumer complaints regarding household goods movers would be transferred to the Federal Trade Commission."

FEE INCREASES

Mr. **Lehman**. Thank you, Mr. DeLay. Turning to fee increases. You have recently announced some fee increases for ICC services. What were the increases and why were they necessary?

Mr. **Guthrie**. Yes, Mr. Chairman. Each year, we take a new look at our fee schedule. If I recall last year, there were some minor revisions to our fees in the traffic area. Each year we take a look at that. In fact, it's about this time of year that we do cost studies to find out if we're costing out properly the processing of applications and tariffs and all the other things we charge fees for.

Mr. **Lehman**. In a recent article, the Vice President of the American Short Line Railroad Association was quoted as saying that "An increase of 200 or 300 percent—even though seemingly justified on an average by the data developed—is nevertheless an exorbitant toll to exact from a fledgeling carrier that is already hard-pressed to meet its financial commitments." Others speculated that the higher fees would wipe out the financial incentive for some small transactions. How do you respond to such concerns, particularly coming from an industry which has historically had big financial troubles?

Mr. **PHILBIN**. Mrs. Mackall.

Mrs. **MACKALL**. The Commission realizes that and has a program by which parties can ask for a fee waiver. That's administered by the Secretary's Office, and my understanding is that it works fairly well. For small carriers, the fee is waived very often.

Mr. **LEHMAN**. Please expand on your answer for the record, including a discussion of your rate structure and how it is determined.

[The information follows:]

The Commission was aware of the concerns of the railroads when it adopted its 1989 fee changes. Rather than establish the fees involving rail transactions at the revised levels proposed in the notice of proposed rulemaking, the Commission established the fees for those items at less than fully distributed costs. In its final rule decision the Commission stated, "However, even though we believe that we have a firm basis for setting the fees for these abandonment and rail finance proceedings at the fully distributed cost levels, we recognize that to minimize the possible adverse effect on small rail carriers or other persons that will file such proceedings, the proposed increases could be implemented in part, with the remainder phased in over time." *Regulations Governing Fees For Services Performed in Connection with Licensing and Related Services—1989 Update,* 5 I.C.C. 2d 817, 819. The 1989 fees for those items were established as follows:

Fee Item (33)(ii): Exempt transaction under 49 CFR 1150.31	$1,000
Fee Item (38): Abandonment applications	3,000
Fee Item (41): Exempt abandonments	1,500
Fee Item (55):	
(i) Financial exemption petitions	2,500
(ii) Abandonment exemption petitions	2,000
(iii) Other exemption petitions	1,100

The Commission stated that these fees would further increase by 10 percent each year until they reached the fully distributed cost level. The Commission reserved the right to cap any of these fees if the fee waiver activity demonstrated that the public interest warranted capping the fee.

The Commission emphasized that any carrier or person that believed that these increased fees impose an undue burden, could request a waiver under the fee waiver provisions of 49 CFR 1002.2(e)(2)(i-ii). Since the establishment of the 1989 fee schedule, the Commission has only received two requests for waiver of the referenced fees. One request was granted, and one request was denied. The denial was based on lack of proof of financial hardship and was not appealed.

USER FEE UPDATE

Mr. **LEHMAN**. Please update for the record the data provided on page 1018 of last year's hearing record concerning the updating of user fees.

[The information follows:]

For the 1989 User Fee Update, the costs for all fee items, which were not the subject of a revised cost study, reflected an increase of 10.63 percent over the previous year's schedule. A variety of factors contributed to this increase. The direct labor cost data have been revised to reflect the 1989 Government-wide general schedule salary increase of 4.1 percent which took effect in January 1989. The Government fringe benefit cost used in our update formula has increased from 47.05 percent to 49.55 percent because of the changes directed by the Office of Management and Budget Circular No. A-76, "Revised Transmittal Memorandum #7", September 28, 1988. Based on the Commission's FY 1988 actual budget data, the Offices' general and administrative expense factor has increased from 19.64 percent to 22.66 percent, and the Commission's general and administrative expense factor has increased from 10.48 percent to 10.67 percent. The operation overhead factor which is developed from FY 1988 payroll cost data, increased from 7.97 percent to 8.77 percent. However, due to the fee rounding procedures set forth in the Commission's regulation, not all fees changed.

COMMISSION COLLECTIONS

Mr. LEHMAN. Please update for the record the table on page 1019 of last year's hearing record concerning collections from filing and user fees.

[The information follows:]

COMMISSION COLLECTIONS

[In thousands of dollars]

	Fiscal year					
	1986 [1]	1987 [1]	1988 [1]	1989 [1]	1990 [2]	1991 [2]
Registration filing fees	$4,464	$4,324	$4,859	$5,342	$5,550	$5,700
Fines, penalties, and forfeitures	1,134	852	67	143	60	60
Charges for administrative services	47	32	47	58	60	60
Miscellaneous recoveries and refunds	2	1	14	0	1	1
Loan guarantee recovery		[3] 11,639				
Total	5,647	16,848	4,987	5,543	5,671	5,821

[1] Actual.
[2] Projected.
[3] Receipt of last repayment of loan guarantee program.

RAILROAD INDUSTRY ASSESSMENT

Mr. LEHMAN. Before turning to railroad issues, Mr. Durbin?

Mr. DURBIN. I don't have any questions.

Mr. LEHMAN. Can you update us on the overall health of the U.S. railroad industry today?

Mr. PHILBIN. Yes, Mr. Chairman, I can. In general, the financial health of the railroad industry has improved over that of the past several decades. The Commission recently found two railroads to be revenue adequate; that means they are earning competitive returns on their investment, and two others were tentatively found revenue adequate with several others approaching that level of earnings.

After decades of disinvestment, railroads appear to be reinvesting in the railroad business and upgrading portions of the basic rail system.

The Staggers Act has permitted and encouraged the railroads to reduce costs and to compete more effectively among themselves and with motor carriers and with barge lines, thereby raising their earnings. At the same time, savings have been passed on to the shippers through improved service and reduced rate levels.

Labor negotiations have permitted some increased productivity, and the spinning off of unprofitable and marginally profitable rail lines to local operators has generally led to improved local service at reduced costs.

Recent court decisions concerning labor protection have dampened the pace at which new local and regional railroads are being created. The Commission's relaxation of rate regulation, more specifically the boxcar, the trailer on flatcar and the container on flatcar and other exemptions, has permitted the railroads to compete more effectively with other modes of traffic.

The result has been substantial increases in traffic and lower average rate levels in relation to inflation adjusted 1980 levels.

The financial health of the railroad industry is, of course, heavily dependent upon the health of the industrial sector of the economy. For example, the industrial slowdown in New England has contributed to difficulties with the railroads in that region. But in sum, the state of railroad industry in general is healthy, and the outlook can be said to be optimistic.

REVENUE ADEQUATE RAILROADS

Mr. **Lehman**. In November, the ICC declared two railroads, the Norfolk Southern and the Florida East Coast Railway, to be "revenue adequate". This is the first time since passage of the Staggers Act that any railroad has been considered that financially healthy. What are the implications of that determination? Do you expect to see an increase in the number of "revenue adequate" railroads in the coming years?

Mr. **Herndon**. At this time, Mr. Chairman, I don't think we'll see an increase in 1989 in the number of carriers that are revenue adequate. What we'll probably see is quite a few very close to the cost of capital, however, very similar to what we saw in 1988.

Mr. **Lehman**. Some of the financial protections offered by the Staggers Act do not apply to "revenue adequate" railroads. Doesn't this provide a disincentive for railroads to improve their financial performance? It's a disincentive—if you win, you lose?

Mr. **Herndon**. I really don't think so, Mr. Chairman. I think revenue adequacy is an objective. There are various ways to get there, and I don't think that the railroads would intentionally try not to get there. We've seen evidence that they have been streamlining their operations, they've been going through labor buyouts to help bring down the labor dollar, and all this is just now starting to show in the financial results. I think in future years we'll see even more of that. They're becoming much more productive.

Mr. **Lehman**. Are industry officials trying to convince the ICC that revenue adequacy should not be used as a basis for holding down rate increases until these railroads have been through a lot of good and bad times? How would you evaluate this concern? Is such a proposal feasible?

Mr. **Herndon**. It remains to be seen. One of the constraints on maximum rates is revenue adequacy. Since we haven't had a case in which a carrier was revenue adequate, it's hard for me to speculate exactly how this mechanism will be applied. But what we have said in the Ex Parte 347 guidelines regarding maximum rates is that revenue adequacy is a long term objective. So if in any single year a carrier is revenue adequate, it may be that we would have to spread that out over a period of time to see if they are revenue adequate over more than a short period, and then apply that constraint to the maximum rate case. But like I say, we haven't had to face it yet.

Mr. LEHMAN. It's the bridge over the River Kwai syndrome. You do a real good job, you don't want to have to destroy it.

CLASS I RAILROAD REVENUE ADEQUACY DATA

Please update for the record the Class I revenue adequacy data found on pages 887–888 of last year's hearing record.

[The information follows:]

The chart shows the revenue adequacy determinations for Class I railroads for each year from 1979 through 1988.

Class I Railroad Revenue Adequacy Determinations (1979 - 1988)
(Utilizing Return on Investment Equal to Cost of Capital)

	Notes	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Alabama Great Southern	1,2	---	6.6	8.7	4.3	4.8	8.9	---	---	---	---
Atchison Topeka & Santa Fe		5.9	7.0	5.0	2.7	3.3	2.8	4.3	4.2	3.6	5.7
Baltimore & Ohio	3	4.5	3.8	2.4	0.4	0.2	2.9	4.3	---	---	---
Bessemer & Lake Erie	4	11.7A	11.6	8.9	0.0	2.3	4.9	---	---	---	---
Boston & Maine	5	0.0	2.9	0.0	0.0	---	8.9	0.0	0.0	0.0	0.0
Burlington Northern		4.1	5.5	4.3	4.5	8.2	11.0	10.3	5.7	9.5	11.8T
Central of Georgia	1,2	---	10.0	9.7	6.2	8.1	10.7	---	---	---	---
Chesapeake & Ohio	3	4.6	6.8	5.4	5.3	4.1	4.3	11.1	---	---	---
Chicago & North Western		0.0	3.6	2.2	0.0	4.7	3.1	2.0	2.1	3.2	11.9T
Chicago Milwaukee St Paul & Pac.	6	0.0	0.0	0.0	0.0	0.0	5.2	---	---	---	---
Cincinnati, New Orleans & Texas Pac.	1,2	---	10.7	10.3	7.6	9.7	12.2	---	---	---	---
Clinchfield	3,7	11.6	19.1A	18.1A	8.0	---	---	---	---	---	---
Colorado & Southern	8	0.0	7.7	4.8	---	---	---	---	---	---	---
Conrail		0.0	0.0	0.0	0.0	3.7	6.6	4.9	4.3	4.3	5.9
CSX									5.5	5.9	8.1
Delaware & Hudson	4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	---
Denver & Rio Grande West		8.6	8.9	8.1	4.5	2.9	0.8	5.6	4.5	2.3	6.9
Detroit Toledo & Ironton	4	5.1	0.0	0.0	0.0	0.0	---	---	---	---	---
Duluth Mesabi & Iron Rge	4	6.1	7.0	6.1	0.0	2.3	0.0	---	---	---	---
Elgin Joliet & Eastern	4	13.3A	3.6	3.9	2.7	3.7	1.8	0.0	---	---	---
Florida East Coast		1.5	5.7	3.3	2.7	0.0	8.0	5.5	7.0	6.8	14.6A
Fort Worth & Denver	8	22.8A	19.3A	21.9A	---	---	---	---	---	---	---
Grand Trunk Western		2.5	0.0	3.0	0.0	0.0	3.0	1.6	0.0	0.0	2.0
Illinois Central (Gulf)	9	0.0	0.0	0.0	0.0	0.0	0.0	2.4	4.0	3.8	4.8
Kansas City Southern		6.6	7.6	7.6	7.3	7.4	9.0	9.2	9.0	11.0	11.5
Louisville & Nashville	3,7	5.1	5.5	7.0	4.9	---	---	---	---	---	---
Missouri Kansas Texas	10	5.7	5.5	11.8	7.0	6.5	5.4	2.2	1.9	6.8	---
Missouri Pacific	10	8.4	8.1	8.0	6.0	4.9	3.6	6.2	---	---	---
Norfolk & Western	2	8.9	9.3	10.8	8.0	5.3	5.2	9.1	---	---	---
Norfolk-Southern									7.4	7.4	13.1A
Pittsburgh & Lake Erie	4	10.1	17.8A	1.2	0.0	0.0	0.0	---	---	---	---
Seaboard	3	7.2	7.0	2.1	1.4	4.2	5.6	8.0	---	---	---
Soo Line		8.2	9.2	8.1	3.0	2.9	2.3	1.5	1.7	1.3	5.0
Southern Pacific		1.6	2.6	0.5	0.0	0.0	0.0	0.7	0.0	1.0	2.9
Southern	1,2	9.1	7.8	7.7	4.4	4.0	5.0	8.1	---	---	---
St Louis Southwestern	11	7.5	5.8	3.9	4.2	3.3	1.6	3.2	4.3	6.3	---
St Louis San Francisco	7	5.8	---	---	---	---	---	---	---	---	---
Union Pacific		7.6	7.8	7.4	4.4	4.7	4.3	7.3	8.6	10.0	11.2
Western Pacific	10	4.4	3.2	0.0	0.0	0.0	0.2	0.0	---	---	---
Western Maryland	3,12	9.6	4.2	5.7	5.8	---	---	---	---	---	---
COST OF CAPITAL		**11.7**	**12.1**	**16.5**	**17.7**	**15.3**	**15.8**	**13.8**	**11.7**	**11.6**	**11.7**

"A" designates railroads that are revenue adequate.

"T" designates railroad tentatively found to be revenue adequate for 1988.

Notes are found on the following page.

Notes For Class I Railroad Revenue Adequacy Determinations (1979 - 1988)

Data for 1979 through 1984 on Retirement-Replacement-Betterment Accounting Basis.

Data for 1985 through 1988 on Depreciation Accounting Basis.

Data for 1979 through 1987 from Annual Reports to the Commission and Supplements to those reports except for the following which are based on original costs before writedowns that occurred due to reorganizations:

Boston & Maine 1985 and 1986
Delaware & Hudson 1981, 1982, 1985, and 1986
Chicago & North Western 1981, 1982, 1985, and 1986
Seaboard 1985
Western Pacific 1981, 1982, and 1985
Conrail 1981, 1982, 1985, and 1986
Pittsburgh & Lake Erie 1981 and 1982

Certain one-time special charges are excluded for:

1985: Baltimore & Ohio, Chesapeake & Ohio, Seaboard, and Chicago & North Western.

1986: Illinois Central Gulf, Atchison Topeka & Santa Fe, Burlington Northern, Kansas City Southern, St. Louis Southwestern, Soo Line, Southern Pacific, and Union Pacific.

1987: Norfolk Southern.

Data for 1988 on a consolidated basis from Schedule 250 submissions by railroads in accordance with Supplemental Reporting of Consolidated Information for Revenue Adequacy Purposes, 5 I.C.C.2d 65 (1988). Certain one-time special charges are excluded for: Chicago and North Western, CSX, Illinois Central, and Southern Pacific.

1. Data for these carriers included with Southern for 1979 and 1985.
2. These carriers became parts of Norfolk-Southern in 1986.
3. These carriers became parts of CSX in 1986.
4. These carriers no longer Class I as of the year(s) indicated.
5. The Boston & Maine provided insufficient data for 1983.
6. Merged with Soo in 1985.
7. Included with Seaboard from 1983 to 1985.
8. These carriers became parts of Burlington Northern in 1980 and 1982.
9. Changed name from Illinois Central Gulf to Illinois Central in 1988.
10. These carriers became parts of Union Pacific between 1986 and 1988.
11. Included with Southern Pacific on a consolidated basis in 1988.
12. Included as part of Baltimore & Ohio for 1983 through 1985.

CLASS I RAILROAD EARNINGS DATA

Mr. LEHMAN. Please also update for the record the Class I railroad earnings data found on pages 890–899 of last year's hearing record.

[The information follows:]

The following are the Bureau of Accounts' latest publicly released earnings report of Class I railroads and the accompanying press release.

interstate commerce commission
icc news
12th & constitution avenue nw □ washington dc 20423

FOR RELEASE
Wednesday, January 31, 1990
No. 90-18

Contact: Dennis Watson
(202) 275-7252

EARNINGS OF THE NATION'S LARGEST RAILROADS DECLINE IN THE THIRD QUARTER OF 1989.

The Nation's largest railroads reported a decline in earnings (excluding restructuring charges) in the third quarter of 1989, compared to the same quarter of 1988, according to a report issued today by the Interstate Commerce Commission's Bureau of Accounts.

Today's report compares the revenues, earnings and traffic volume of the Nation's Class I line-haul railroads for the quarter and twelve months ending September 30, 1989, with the same periods of 1988. A comparison of operations for these time periods is shown in the following tables.

($ 000 Omitted)

	3rd Qtr 1989	3rd Qtr 1988	Percent Change
Railway Operating Revenues	$ 6,884,785	$ 7,005,074	- 1.7%
Net Railway Operating Income	$ 684,146	$ 717,159	- 4.6%
Ordinary Income	$ 595,048	$ 745,317	- 20.2%
Revenue Ton Miles (millions)	251,383	249,522	+ 0.7%

(MORE)

	12 mo ending 9/30/89	12 mo ending 9/30/88	Percent Change
Railway Operating Revenues	$28,113,438	$27,717,661	+ 1.4%
Net Railway Operating Income	$ 2,371,751	$ 2,535,599	- 6.5%
Ordinary Income	$ 2,599,376	$ 2,806,813	- 7.4%
Return on Investment	6.45%	7.06%	- 8.6%
Revenue Ton Miles (millions)	1,006,128	991,690	+ 1.5%

Note: The above tables exclude special charges by seven railroads to record major restructuring efforts.

Earnings during these quarterly and twelve month periods were reduced due to special charges resulting from major restructuring efforts by the railroads to eliminate excess capacity and increase labor productivity. The above tables exclude these restructuring charges.

This report is based primarily upon quarterly reports submitted to the Commission and these figures have not been verified by the ICC.

Copies of this report can be obtained from the Office of the Secretary, Publications Room B-221, Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423, telephone (202) 275-7833.

ICC

INTERSTATE COMMERCE COMMISSION
BUREAU OF ACCOUNTS
WASHINGTON, DC 20423

SHEET 1 of 8

CLASS I FREIGHT RAILROADS, SELECTED EARNINGS DATA
(000 OMITTED)

		QUARTER ENDED SEPTEMBER 30					TWELVE MONTHS ENDED SEPTEMBER 30					
		RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RETURN ON NET INVESTMENT(%)(D)
EAST - SOUTH DISTRICT.........	1989	$3,007,735	$318,726	$267,810	$267,810	88,259,522	$12,631,379	$1,217,141	$1,340,790	$1,340,790	360,183,727	6.60%
	1988	3,134,662	362,378	362,901	362,318	88,155,289	12,445,593	739,204	931,220	1,007,726	356,319,488	4.08%
WESTERN DISTRICT..............	1989	3,877,050	356,420	318,238	318,238	163,123,841	15,482,059	968,700	1,072,676	1,290,539	645,944,702	5.29%
	1988	3,870,412	343,281	370,916	381,602	161,367,060	15,272,068	1,297,121	1,376,319	1,353,558	635,370,240	7.29%
TOTAL ALL CLASS I	1989	6,884,785	675,146	586,048	586,048	251,383,363	28,113,438	2,185,841	2,413,466	2,631,329	1,006,128,429	5.95%
FREIGHT RR'S..............	1988	7,005,074	705,659	733,817	743,920	249,522,349	27,717,661	2,036,325	2,307,539	2,361,284	991,689,728	5.67%

INTERSTATE COMMERCE COMMISSION
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SHEET 2 of 8

CLASS I FREIGHT RAILROADS, SELECTED EARNINGS DATA
(000 OMITTED)

		QUARTER ENDED SEPTEMBER 30					TWELVE MONTHS ENDED SEPTEMBER 30					
		RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RETURN ON NET INVESTMENT(%)(D)
EASTERN & SOUTHERN DISTRICTS												
BOSTON & MAINE................	1989	$20,931	$2,126	$8,201	$8,201	425,016	$81,955	$4,275	$20,426	$20,426	1,655,408	6.48%
	1988	18,233	(3,147)	(916)	(916)	377,809	61,165	(14,420)	(5,022)	(5,022)	762,368	0.00%
CONSOLIDATED RAIL CORP........	1989	813,498	78,930	86,695	86,695	20,014,408	3,404,588	290,355	306,514	306,514	83,089,628	5.14%
	1988	854,779	78,149	83,236	83,236	21,294,749	3,348,969	284,455	307,110	307,110	85,510,283	5.13%
CSX TRANSPORTATION (e)........	1989	1,034,676	65,251	33,157	33,157	35,285,967	4,399,811	305,034	323,221	323,221	148,176,017	4.72%
	1988	1,101,068	117,211	107,971	107,971	34,480,702	4,483,882	(89,812)	7,059	24,307	142,887,749	0.00%
FLORIDA EAST COAST............	1989	33,344	2,232	6,395	6,395	1,111,499	143,854	9,731	39,780	39,780	4,651,537	5.26%
	1988	31,336	1,761	4,019	4,019	1,081,041	136,737	13,392	27,113	27,113	4,679,873	8.23%
GRAND TRUNK WESTERN...........	1989	74,859	(4,691)	(4,352)	(4,352)	1,309,146	335,195	9,487	14,333	14,333	5,358,972	3.25%
	1988	70,456	(8,796)	(8,994)	(9,577)	1,235,166	318,794	(3,338)	(2,897)	(3,812)	5,033,550	0.00%
ILLINOIS CENTRAL (e)..........	1989	127,165	53,635	(2,689)	(2,689)	4,577,625	543,760	57,086	2,594	2,594	16,942,666	5.92%
	1988	139,182	13,895	3,214	3,214	4,059,925	550,855	19,213	(20,688)	39,485	17,310,922	2.17%
NORFOLK SOUTHERN	1989	903,262	121,243	140,403	140,403	25,535,861	3,722,216	541,173	633,922	633,922	100,309,499	11.24%
	1988	919,608	163,305	174,371	174,371	25,425,897	3,545,191	529,714	618,545	618,545	100,134,743	11.11%

INTERSTATE COMMERCE COMMISSION
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CLASS I FREIGHT RAILROADS, SELECTED EARNINGS DATA
(000 OMITTED)

SHEET 3 of 8

		QUARTER ENDED SEPTEMBER 30					TWELVE MONTHS ENDED SEPTEMBER 30					
		RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RETURN ON NET INVESTMENT(%)(D)
WESTERN DISTRICT												
ATCHISON,TOPEKA & FE (e)......	1989	$552,395	$47,507	$61,304	$61,304	20,016,595	2,185,630	93,000	138,656	332,370	78,847,875	3.16%
	1988	523,612	29,984	34,974	34,974	18,872,884	2,094,259	123,506	132,510	132,510	76,924,585	4.29%
BURLINGTON NORTHERN...........	1989	1,152,806	141,548	91,299	91,299	57,817,897	4,537,126	401,964	280,264	171,764	227,638,790	10.21%
	1988	1,139,480	132,682	111,843	111,843	57,223,031	4,426,125	475,634	403,301	403,301	220,399,755	12.05%
CHICAGO NORTHWESTERN (e)(h)...	1989	195,168	16,667	16,090	16,090	6,945,713	826,271	26,144	79,601	74,497	28,491,735	2.48%
	1988	223,945	11,158	11,730	11,730	8,357,681	848,642	39,485	31,142	22,792	30,208,259	3.81%
DENVER & RIO GRANDE...........	1989	82,792	5,658	5,467	5,467	3,487,912	316,252	19,190	22,873	22,873	12,740,237	4.84%
	1988	73,197	8,873	5,798	5,798	2,946,387	279,733	20,301	12,120	12,120	11,548,666	4.97%
KANSAS CITY SOUTHERN (f)......	1989	83,832	12,695	9,830	9,830	3,060,603	314,945	70,428	(21,961)	(6,312)	11,617,367	18.19%
	1988	79,830	9,713	9,556	9,556	2,937,914	309,786	36,982	33,921	33,921	11,592,021	11.14%
ST.LOUIS SOUTHWESTERN (e).....	1989	93,913	4,043	3,815	3,815	4,179,939	390,146	(4,939)	6,723	63,723	16,434,412	0.00%
	1988	97,406	9,296	10,397	10,397	3,922,796	388,812	34,422	37,437	37,437	14,911,325	7.20%

INTERSTATE COMMERCE COMMISSION
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CLASS I FREIGHT RAILROADS, SELECTED EARNINGS DATA
(000 OMITTED)

SHEET 4 OF 8

		QUARTER ENDED SEPTEMBER 30					TWELVE MONTHS ENDED SEPTEMBER 30					
		RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RAILWAY OPERATING REVENUE	NET RAILWAY OPERATING INCOME (A)	INCOME BEFORE X-ORDINARY ITEMS (B)	NET INCOME(C)	REVENUE TON-MILES OF FREIGHT	RETURN ON NET INVESTMENT(%)(D)
WESTERN DISTRICT CONT'D												
SOO LINE (e)..................	1989	137,775	(593)	1,469	1,469	5,184,396	531,257	9,701	12,813	12,813	20,000,465	1.53%
	1988	133,771	7,105	5,696	5,696	4,885,783	564,473	31,257	24,145	24,145	20,945,291	4.84%
SOUTHERN PACIFIC (e)..........	1989	488,612	(11,769)	(12,000)	(12,000)	17,992,786	1,918,605	(211,484)	26,061	100,061	67,928,674	0.00%
	1988	489,841	(3,893)	55,071	55,071	17,030,743	1,978,451	10,985	203,651	203,651	66,360,202	0.38%
UNION PACIFIC (g).............	1989	1,089,757	140,664	140,964	140,964	44,438,000	4,461,827	564,696	527,646	518,750	182,245,147	10.46%
	1988	1,088,105	143,517	132,068	132,068	44,273,337	4,160,634	499,466	465,678	440,581	173,012,870	10.33%
MISSOURI-KANSAS-TEXAS (g).....	1989	0	0	0	0	0	0	0	0	0	0	
	1988	21,225	(5,154)	(6,217)	4,469	916,504	221,153	25,083	32,414	43,100	9,467,266	7.59%

NOTE: This report does not include the National Passenger Corporation (Amtrak) since it is not a freight hauling railroad and is not subject to the ICC Uniform System of Accounts.

a./ Net Railway Operating Income - Difference between operating revenues and the total of railway operating expenses, railway tax accruals and net equipment and joint facility rents.

b./ Income Before Extraordinary Items - Net income after including fixed charges, non-operating income, unusual or infrequent items and earnings attributable to discontinued segments but before extraordinary items and cumulative effect of changes in accounting principles.

c./ Net Income - Net income after extraordinary items and cumulative effect of changes in accounting principles.

d./ Return on Net Investment - Ratio of net railway operating income to net investment in railway property used in transportation services at end of previous calendar year. The latter includes an allowance for working capital based upon the Commission's Rail Form A formula. Accumulated deferred income tax reserves have been subtracted from the net investment base in accordance with the modification approved by the Commission in Ex Parte No.393 (Sub-No. 1), Standards for Railroad Revenue Adequacy, served December 31, 1986. If net investment data as of the end of each quarter were available, returns on investment would be computed by using an average of the net investment at the beginning and at the end of the respective twelve month periods. However, net investment data is generally only available as of the end of the calendar year and is derived from annual reports (Form R-1) of Class I line-haul railroads which are required to be filed with the Commission by March 31 of the following year. Thus, the net investment data used for this report which represent the latest available end of calendar year data are not averaged in order to assure that net railway operating income is more closely equated, timewise, with the railroad assets generating this income. The symbol -0- for return on net investment indicates a deficit net railway operating income. Net railway operating income shown above is derived from quarterly Forms RE&I filed by class 1 railroads with the Commission.

Return on net investment (ROI), as computed by the Commission for its annual determination of the revenue adequacy of each class 1 railroad, will differ from the ROI's computed for this report. ROI for the revenue adequacy determination is based upon an average of the beginning and end of year net investment base and, as discussed previously, ROI for this report is not based on such averaging. Also, beginning with the calendar year 1988, ROI for revenue adequacy will be compiled by using net railway operating income and net investment base data as reported by class 1 railroads in a new schedule in the Annual Report Form R-1, Schedule 250, Consolidated Information for Revenue Adequacy Determination. The data in this new schedule will be computed in accordance with certain revisions adopted by the Commission, such as: 1) the inclusion of data of railroad related affiliated companies in the consolidated entity; 2) the inclusion of interest income attributable to the allowance for railroad working capital; and 3) the exclusion of income taxes associated with non operating income, Ex Parte No. 393 (Sub-No. 2), Supplemental Reporting of Consolidated Information for Revenue Adequacy Purposes, served November 17, 1988.

e./ Net railway operating, income before extraordinary items and net income shown above for some railroads for the quarters ended September 30, 1989, and September 30, 1988, and the twelve months ending September 30, 1989 and September 30, 1988, were reduced due primarily to large accounting adjustments to record severance pay for employee buyouts, the write-down of assets attributable to freight car retirements and line abandonments, and costs and claims expected to result from litigation and negotiated settlements. The following schedule shows the affected railroads, the amounts of adjustments (expenses less related tax benefits) and the impact on the composite Class 1 railroads earnings data:

	QUARTER ENDED SEPTEMBER 30, 1989			TWELVE MONTHS ENDED SEPTEMBER 30, 1989			
	Net Railway Operating Income	Income Before Extra-Ordinary Items	Net Income	Net Railway Operating Income	Income Before Extra-Ordinary Items	Net Income	Return on Net Investment
Total All Class I Freight Railroads (Per Summary on Page 1)...........$	675,146	$ 586,048	$ 586,048	$2,185,841	$2,413,466	$2,631,329	5.95
Plus:Add-Back Total of Large Adjustments Reducing Earnings of Six Railroads (See Below)...	9,000	9,000	9,000	185,910	185,910	185,910	
Total All Class I Freight RR's Excluding Large Adjustments of Six Railroads.....	684,146	595,048	595,048	2,371,751	2,599,376	2,817,239	6.45
Large Adjustments Reducing Earnings of Six Railroads:							
Railroad — Quarter Recorded							
Soo Line......................(3rd Quarter-89)	9,000	9,000	9,000	9,000	9,000	9,000	
Atchison Topeka & Santa Fe...(1st Quarter-89)	-	-	-	32,000	32,000	32,000	
Illinois Central.............(1st Quarter-89)	-	-	-	20,700	20,700	20,700	
Chicago & North-western.(2nd Quarter-89 & 4th Quarter-88)	-	-	-	18,370	18,370	18,370	
St. Louis Southwestern.......(4th Quarter-88)	-	-	-	28,350	28,350	28,350	
Southern Pacific.............(4th Quarter-88)	-	-	-	77,490	77,490	77,490	
TOTAL	9,000	9,000	9,000	185,910	185,910	185,910	

	QUARTER ENDED SEPTEMBER 30, 1988			TWELVE MONTHS ENDED SEPTEMBER 30, 1988			
Total All Class I Freight Railroads (Per Summary on Page 1).......... $	705,659	$ 733,817	$ 743,920	$2,036,325	$ 2,307,539	$ 2,361,284	5.67
Plus: Add-Back Total of Large Adjustments Reducing Earnings of Three Railroads (See Below)............................	11,500	11,500	11,500	499,274	499,274	499,274	
Total.All Class I Freight RR's Excluding Large Adjustments of Three Railroads...	717,159	745,317	755,420	2,535,599	2,806,813	2,860,558	7.06
Large Adjustments Reducing Earnings of Three Railroads:							
Railroad — Quarter recorded							
Illinois Central........... (1st Quarter-88)	-	-	-	23,100	23,100	23,100	
CSX Transportation......... (2nd Quarter-88)	-	-	-	457,574	457,574	457,574	
Chicago & Northwestern..... (3rd Quarter-88)	11,500	11,500	11,500	18,600	18,600	18,600	
TOTAL	11,500	11,500	11,500	499,274	499,274	499,274	

The schedule below shows for each of the affected railroads net railway operating income and return on net investment, excluding these large adjustments.

		QUARTER ENDED SEPTEMBER 30	TWELVE MONTHS ENDED SEPTEMBER 30	
		Net Railway Operating Income	Net Railway Operating Income	Return On Net Investment
CSX Transportation	1989	65,251	305,034	4.72
	1988	117,211	367,762	5.78
Illinois Central	1989	53,635	77,786	8.07
	1988	13,895	42,313	4.77
Chicago & North Western	1989	16,667	44,514	4.23
	1988	22,658	58,085	5.60
St. Louis Southwestern	1989	4,063	23,411	3.54
	1988	9,296	34,422	7.20
Southern Pacific	1989	(11,769)	(133,994)	-0-
	1988	(3,893)	10,985	0.38
Atchison, Topeka & Santa Fe	1989	47,507	125,000	4.25
	1988	29,984	123,506	4.29
Soo Line	1989	8,407	18,701	2.95
	1988	7,105	31 257	4.84

f./ The large difference between Kansas City Southern's ordinary loss and net railway operating income for the twelve months ending September 30, 1989 is primarily attributable to an $82 million unusual or infrequent expense in connection with an out-of-court settlement of anti-trust litigation. The related $33.3 million reduction in income tax expense substantially increased net railway operating income in this period. Excluding this favorable tax impact, net railway operating income and return on net investment for the twelve months ending September 30, 1989 would be as follows (data for the twelve months ending September 30, 1988 is also shown for comparable purposes):

TWELVE MONTHS ENDED SEPTEMBER 30

(000 Omitted)

Net Railway Operating Income......	1989	37,128
	1988	36,982
Return on Net Investment..	1988	9.59
	1987	11.14

g./ The Union Pacific Railroad System acquired control of the Missouri-Kansas-Texas Railroad Company, effective August 1,1988. Consequently, the data shown above for the Union Pacific include the results of operations over the lines of the Missouri-Kansas-Texas subsequent to August 1, 1988. Data shown above for the Missouri-Kansas-Texas for the quarter and twelve months ending September 30, 1988 reflect operations from October 1, 1987 to July 31, 1988.

h./ Return on investment for Chicago and North Western does not include the results of operations and net investment base of Western Railroad Properties, Inc. (WRPI), the western coal hauling subsidiary of the CNW System. WRPI's operating results are included in the calculation of revenue adequacy for CNW and materially increases the latter's stated net railway operating income.

CLASS I RAILROADS—COMPOSITE RETURN ON INVESTMENT

Mr. LEHMAN. Please also update for the record the bar chart on page 901 of last year's hearing record depicting the composite return on investment for Class I railroads.

[The information follows:]

The bar chart shows the composite return on net investment (ROI) for Class I railroads for each of the years 1966 through 1988. The Commission's revenue adequacy standards (cost of capital rate) are also shown from 1978 (the first year of its calculation) through 1988.

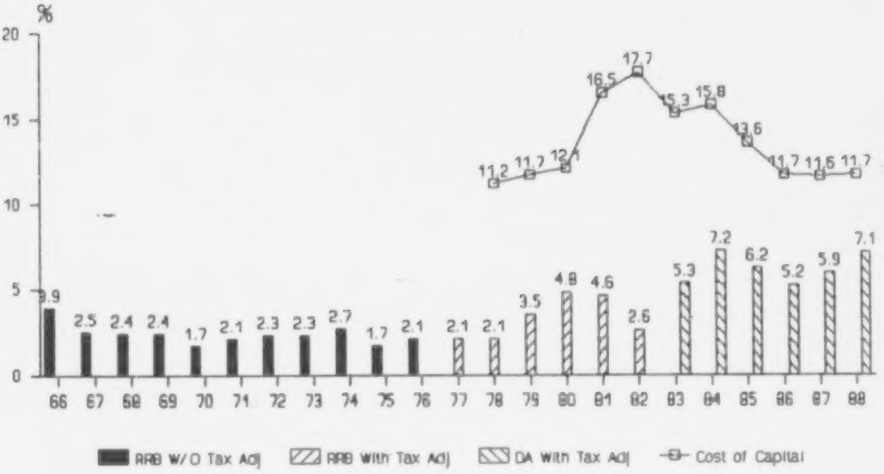
The figures shown incorporate several changes that have occurred in the computation of ROI over the years. These are:

(1) Retirement-replacement-betterment (RRB) accounting is used through the year 1982. Beginning with the year 1983, ratable depreciation accounting (DA) is used.

(2) In Ex Parte 393 (Sub-No. 1), *Standards for Railroad Revenue Adequacy,* served December 31, 1986, the Commission determined that accumulated deferred taxes should be subtracted from the net investment base in the calculation of ROI. Data for 1977 onward show the effect of this adjustment.

(3) Figures for 1985 onward exclude special charges from the computation of ROI. The inclusion of special charges would result in lower rates of return for those years.

Composite Return on Investment
For Class I Railroads
1966 - 1988



1. Cost of Capital rate not available prior to 1978.
2. Excludes Special Charges.

INTERCITY BUS SERVICE

Mr. LEHMAN. Mr. Durbin, do you have a question?

Mr. DURBIN. Thank you. I apologize for being late this morning. We had a caucus going on at the same time.

I understand that there haven't been many questions asked relative to bus service and I wondered if I might ask a few.

I live in a district which is largely rural and of course bus service is important to connect many of the communities in the areas. It appears now that, with the exception of a couple of my cities, many of the smaller towns have had difficulty maintaining bus service. The complaint from the bus company operators is that every other form of transportation receives some sort of subsidy, but they don't. The money we spend on highways in America is certainly worth considering when you realize the limited transportation options in some parts of America. What is the current state of health of intercity bus service in America?

Mr. GAILLARD. Congressman, I don't have those statistics.

Mr. PHILBIN. I have in fact looked at that in rather general terms, specifically with regard to the acquisition of Trailways by Greyhound. Trailways was in a perilous condition, and the Commission's allowance of that acquisition, I thought, probably saved Trailways from extinction. Since that time, Greyhound-Trailways has in fact had its problems, and continues to have its problems as we can see from the daily newspapers; but in general, it seems to be improving somewhat.

I share your concern about that bus system, because it is important to the nation's transportation network. We can, in fact, examine our own records and see if we can provide you with some firmer data than that for the record if that would satisfy you, sir.

Mr. DURBIN. I am concerned about this phenomena, particularly in light of Secretary Skinner's recent transportation policy report. I just wonder if the Administration is accepting any national responsibility when it comes to transportation for these rural communities.

If these bus companies discontinue service, it will have a dramatic impact on the quality of life in the communities I represent. I wonder, since we currently don't provide any kind of direct assistance to them, whether you feel that we should.

Mr. PHILBIN. I have to say, sir, in all honesty I really think that's outside my expertise. Certainly, it's logical that if we decide that the bus system is necessary to the national transportation network and it cannot be self-supporting economically then we would have to make the decision whether or not to subsidize it as an investment in the national system.

Whether we have reached that stage or are approaching it, I couldn't really honestly answer you. It seems to me from the data that I have read and the time that I've been at the ICC, which unfortunately is very short, that Greyhound at least up until the time of the strike was holding its own, if not improving.

AMERICANS WITH DISABILITIES ACT

Mr. DURBIN. The ADA legislation—Americans with Disabilities Act—could have some impact on transportation, particularly on bus service. Has your agency taken a look at that legislation and the impact it might have?

Mr. PHILBIN. We are aware of the legislation, but I don't believe that we have any jurisdiction in that particular area. I am aware that the bus companies have said that the imposition of the requirement for lifts on the buses would be extremely expensive. Estimates have gone up to $35,000 per bus, which has to be traded off against the number of disabled people who require that kind of assistance to get aboard the bus. There are further claims of increased costs because of widening of the aisles and fixing the doors to the lavatories so that they can be used by people in wheelchairs.

The whole question from the operator's side has been the increased cost of the equipment and the reduced capacity of the vehicles themselves to carry baggage and express packages, which is revenue producing. So the argument all comes down to the need of the disabled versus what it would cost to satisfy that need, and really that's a policy issue that the Congress is going to have to address.

Mr. DURBIN. It certainly is.

Mr. PHILBIN. I can't offer you any help on that area, more than what I've already said.

Mr. DURBIN. I was just curious as to whether or not your agency took a look at the impact of that kind of legislation on these modes of transportation. From what I gather, you have not at this point.

Mr. PHILBIN. Not specifically, because I don't feel that it really falls within our jurisdiction.

Mr. DELAY. Would the gentleman yield on that point?

Mr. DURBIN. Sure.

Mr. DELAY. You don't feel that it falls within your jurisdiction but in fact the Administration is supporting this approach. Could you explain to me why it doesn't fall within your jurisdiction to make a statement about the impact on the bus industry?

Mr. PHILBIN. The jurisdiction of the ICC is that set by statute. We can exercise no greater jurisdiction than the Congress gives us, and certainly we should not exercise less than we are given.

I am not aware that the ICC has been given a jurisdiction on this particular area, although Congress could certainly give us some kind of authority to ensure compliance if the law is passed. It's really a technical point I'm making here.

As far as the need for the equipment, I think it's obvious that disabled people who have to use buses need some type of assistance to get aboard the buses and to be able to care for themselves during the normal course of a trip or certainly in case of accident. It will all come down to what is affordable, I think, and that's a personal opinion.

I support the approach. I certainly do.

Mr. DELAY. I don't think it's coming down to that in the development of this policy or in the passage of the bill. If you noticed the markup in the Public Works Committee just last week, all of the attempts to make it affordable or to bring it into a moderate phase were rejected by the Public Works Committee. Maybe I'm misinformed but is the Bush Administration taking a position on the ADA bill without consulting the ICC?

Mr. PHILBIN. We have not been asked to comment so far. As I said, our jurisdiction is limited by the statute. And my understanding of what's contained in the statute is that it does not as yet cover that particular area. That's probably why we have not been consulted.

Mr. DELAY. ICC doesn't cover buses?

Mr. PHILBIN. We cover buses, but not that aspect of it.

Mr. DELAY. But if this bill passes, you will be covering that aspect of it. Is the ICC going to take a position either privately with the Administration or publicly on the effect of this ADA bill on the bus industry?

Mr. PHILBIN. If asked, we could certainly develop a position on that. The position would be, I can tell you now, that we support the new legislation as does the Administration. We would have to make our own calculations as to what the economic impact would be on the bus industry, and that's what I'm suggesting to you—that we have not done that yet because we have not been asked.

Mr. DELAY. Has anybody done it in the Administration?

Mr. PHILBIN. I believe the Department of Transportation probably has detailed studies on the issue.

Mr. DELAY. Thank you for yielding.

Mr. DURBIN. Certainly. It does raise an interesting question. If your agency is the clearing house for consumer complaints, as I understand it is, it strikes me that this is going to be an area where you might find a few consumer comments.

Mr. PHILBIN. I wouldn't be at all surprised.

SMOKING ON BUSES

Mr. DURBIN. I would hope the Subcommittee will forgive me, but is there a smoking policy on buses?

Mr. PHILBIN. Yes.

Mr. DURBIN. What is it?

Mr. GAILLARD. The statute provides some requirements that the bus employs in dividing bus areas. The procedures are self-policing, primarily, but we do set some general requirements.

Mr. DURBIN. Such as?

Mr. GAILLARD. I think it's the last one-third of the bus in the rear or something like that. It isn't often complained about. There are a lot of smokers apparently on the buses. But we do get complaints from time to time.

Mr. DURBIN. Thank you very much. Thank you, Mr. Chairman.

GREYHOUND STRIKE

Mr LEHMAN. What's the current status of labor negotiations in the Greyhound strike, and how much of the service, according to your information, has been restored?

Mr. GAILLARD. Mr. Chairman, we were advised as late as this morning from the Federal Mediation and Conciliation Service that Greyhound is meeting today, I believe, or tomorrow with the new chairman of the Federal Mediation and Conciliation Service. The mediator met with the union officials earlier during the week. We hope that this would lead to some resolution of the strike. We understand that this may lead to some further meetings in Phoenix, Arizona, I believe, this weekend. So we are optimistic that this matter will be resolved shortly.

Mr. **Lehman**. What percentage of operations are they performing at the present? What level of operations? Is that measurable?

Mr. **Gaillard**. We have been in daily contact with Greyhound to try to keep track of that, Mr. Chairman. Regarding service, we understand that between March 2 and March 11, 1990, Greyhound handled approximately 534,000 passengers compared against 1,390,000 during the same period last year. That's 62 percent down. For the same period, Greyhound advised that its departing buses from terminals was 30 percent of the same period last year. The service is considerably down.

Mr. **Lehman**. And do you have a concern about safety or the safety records of these substitute carriers?

Mr. **Gaillard**. We have special internal procedures which permit emergency requests to be granted on short notice. We have extended our hours on weekends to permit carriers to come in and fill behind Greyhound in those areas where a vacuum has been created. We do make a safety check with the Department of Transportation on every one of those applications, sir.

IMPACT OF GREYHOUND/TRAILWAYS MERGER ON INDUSTRY

Mr. **Lehman**. Following the merger of Trailways and Greyhound in June 1988, operating revenues and earnings in the industry were severely depressed. Has that situation improved, and if so, would you tell us why?

[The information follows:]

Greyhound Lines is the predominant carrier in the intercity bus industry as the scope of its operations substantially increased in July 1987 when it was granted temporary authority by the Commission to operate over Trailways' routes. In June 1988 the Commission ganted final approval to a merger of Greyhound and Trailways.

Operating revenues and net carrier operating income (operating revenues less operating expenses) of the intercity bus industry improved substantially in 1988 and 1989 from the depressed levels of 1987 as Greyhound realized benefits from its acquisition of Trailways. However, although Greyhound reported net carrier operating income of $58.1 million for 1989, its net income was only $4.2 million. Net income was substantially less than net carrier operating income as a result of about $50 million of interest expense attributable to the increased debt Greyhound incurred to acquire Trailways. Consequently, Greyhound is highly leveraged, as evidenced by its unfavorably high ratio of debt to debt plus equity (91.4 percent as of September 30, 1989).

The following chart shows revenues and earnings of Greyhound/Trailways from 1986 to 1989.

GREYHOUND/TRAILWAYS OPERATING RESULTS 1986–89

[In thousands of dollars]

Year	Operating revenues	Net carrier operating income	Net income (loss)
1986 [1]	$841,229	$38,354	$31,131
1987 [2]	791,536	(12,733)	(30,386)
1988	855,012	41,213	(10,978)
1989	925,609	58,112	4,159

[1] Includes Trailways data for 1986, which consists of: Operating Revenues, $200,461; Net Carrier Operating Loss, $(14,050); Net Loss, $(3,604).

[2] Includes data reported separately from Trailways, reflecting operations from January 1, 1987, to June 30, 1987. By order served July 2, 1987, the Commission granted Greyhound temporary authority to assume operations over Trailways' routes.

For the first six months of 1987, Trailways reported: Operating Revenues, $77,341; Net Carrier Operating Loss, $(15,666); Net Loss, $(11,641).

AMERICANS WITH DISABILITIES ACT—IMPACT ON BUS INDUSTRY

Mr. **Lehman**. The proposed Americans With Disabilities Act imposes a number of requirements on the intercity passenger bus industry. The executive director of the United Bus Owners of America, which represents 1,000 bus companies ranging from very small firms to the Greyhound/Trailways size firms, recently wrote that this bill might force the vast majority of those companies out of business. Can you offer us your opinion on the economic effect on the bus industry?

Mr. **DeLay**. Excuse me, Mr. Chairman, would you yield?

Mr. **Lehman**. Yes.

Mr. **DeLay**. You asked a question that I hope that the ICC could provide at a later date. He said they don't have the figures on the effect of ADA unless it's been requested, and I think your question asks them to provide those impact studies. And I would like to see them, if they could do it for the record.

Mr. **Lehman**. Can you provide that for the record?

Mr. **Philbin**. Yes, sir.

[The information follows:]

In addition to United Bus Owners of America (UBOA), Greyhound itself has testified that this bill as originally written, requiring that *all* new intercity buses be equipped with a wheelchair lift, would have disastrous consequences for the intercity bus industry and its riders. The lifts would add significantly to the cost of a new bus, with some estimates of $35,000. Lift storage could take up to half the space now used for baggage and revenue producing package express. Requirements that rest rooms, aisles, and seating be modified would add additional capital costs and shrink space for passengers.

We share Greyhound's and UBOA's concerns. The intercity regularly scheduled bus industry competes intensely with air and Amtrak, and particularly with the private automobile. It would not be possible for private bus companies to pass on significant cost increases in this intermodally competitive environment. Moreover, profits of companies in this segment of the bus industry have been marginal or negative for some years, allowing most bus companies only limited ability to absorb cost increases. Anything that would significantly reduce revenue potential—for example, significantly reducing space for relatively high profit-margin package express, reducing the number of revenue seats per bus, or causing seats to be made even smaller (thus adding to passenger discomfort and thereby discouraging ridership)—might indeed threaten the continued viability of a large segment of the scheduled intercity bus industry.

Fortunately, it appears likely that this decision will not need to be made without considerable further study. On March 6, the Subcommittee on Surface Transportation of the House Public Works Committee considered transportation aspects of H.R. 2273, the bill under consideration. A significant amendment relating to commercial buses was offered by the Subcommittee Chairman, Norman Y. Mineta, D-California. The amendment was a compromise supported by the bus industry and groups representing the disabled community and was agreed to without objection. It adds a new section to Title III, *Public Accommodations and Services Operated by Private Entities*. This new Section 305, *Study*, would require the Office of Technology Assessment (OTA) to undertake a study to determine the most cost-effective ways to achieve accessibility for the disabled to over-the-road buses and bus services, particularly for individuals who use wheelchairs. The OTA is to establish and work with an advisory committee composed of bus operators, equipment manufacturers, and representatives of the disabled community. The study, along with recommendations and policy options for legislation, is to be submitted to the President and Congress three years after enactment.

The bill as amended was approved by the Subcommittee on a voice vote. The full Public Works Committee is expected to consider the legislation in early April.

Given the complexity of the issues involved, the Commission supports this approach.

BUS PASSENGER COMPLAINTS

Mr. **Lehman**. Thank you, Mr. DeLay.

Passenger complaints received by the ICC concerning intercity bus service in 1988 increased 9 percent over 1987. Did they increase again in 1989? Please explain any significant changes from the previous year's level and what are the major complaints?

Mr. **Gaillard**. Mr. Chairman, our records do not reflect an increase in passenger complaints last year. In fiscal year 1989 there were only approximately 230 complaints received by the Commission. In fiscal year 1988, our complaints did increase over the previous year, from approximately 307 to 323, attributable largely we think to the transitional effects of the restructuring and reorganization of Greyhound and Trailways. A majority of those complaints involved passenger carrier failures to provide scheduled service and delays in providing service in accordance with operating schedules.

The number of complaints has been down this year consistent with years prior to 1988, prior to the merger.

Mr. **Lehman**. For the record, please expand on your answer, and include a breakdown by nature of complaint for fiscal years 1987, 1988, and 1989.

[The information follows:]

	Fiscal year		
	1987	1988	1989
Failure to provide scheduled service	116	63	57
Delays in providing service in accordance with published operating schedules	39	82	51
Service provided by unauthorized carriers	25	35	17
Service failures, e.g., equipment breakdowns	1	3	2
Overcharges or duplicate payments in connection with rates and charges in tariffs	34	57	30
Dissatisfaction with carriers' handling and processing of claims	92	83	73
Total complaints	307	323	230

LEVERAGED BUYOUTS IN THE RAIL INDUSTRY

Last year, the rail industry, with its low percentage of debt and improved earnings posture, was considered by many to be a prime target for leveraged buyouts. Bills have been introduced in both the House and the Senate which would regulate such sales to protect the public. However, since last year, "LBO fever" has subsided somewhat. Do you still have a concern and what's your position?

Mrs. **Mackall**. The Commission looked at its jurisdiction on leveraged buyouts primarily in the context of the Japonica transaction. If a rail carrier is the target of a leveraged buyout, the ICC may have jurisdiction if the purchaser is a rail carrier or if the parties controlling the purchaser control another rail carrier. Then authority from the Commission is necessary.

There are certain other instances where it's necessary, too, and if securities are going to be issued, the Commission must approve that issuance.

Now, we understand the pending bills. Staff has already prepared implementing rules in the event those bills are enacted.

Mr. **Lehman**. Is additional jurisdiction needed?

Mrs. **Mackall**. If the Congress wants us to be able to review every aspect of every type of railroad takeover, then the answer is yes.

Mr. **Philbin**. Mr. Chairman, the most likely source of jurisdiction in this area would be that which requires the ICC approval of the issuance of securities by a carrier or the assumption of an obligation or liability related to the securities of another person by a carrier. Therefore, the issuance or guarantee of debt by a target carrier would probably be within ICC jurisdiction. I've had a discussion with General Counsel on this, and he said unless there is some specific new requirements in the legislation that we probably have sufficient jurisdiction now.

Mr. **Lehman**. Would you be able to delineate what jurisdiction you think would be necessary to expand this coverage?

Mrs. **Mackall**. Specifics? No, not at this time.

Mr. **Lehman**. Could you include that in the record?

Mr. **Philbin**. Yes, sir. I'll ask the General Counsel to do a study for the record.

[The information follows:]

The Commission has jurisdiction over the acquisition of a rail carrier, whether funded by debt or by equity, unless the acquiring entity is a noncarrier that controls no rail or motor carriers (49 U.S.C. 11343). If a noncarrier acquired the carrier through an asset sale, approval for the new operations would be required under 49 U.S.C. 10901.

Should the noncarrier's acquisition of a carrier proceed via stock purchase, however, jurisdiction is less clear. In its May 15, 1989, Japonica-related letter to Senator James Exon, the Commission concluded that asserting jurisdiction over that acquisition "may be difficult as a matter of law." While publicly traded, negotiable securities issued by the carrier to fund the transaction would require Commission approval under 49 U.S.C. 11301(b)(1), such securities, if issued by the parent noncarrier, would not.

Mr. **Lehman**. The recent case of Japonica Partners' bid to purchase the Chicago and North Western Railroad would have added significant new debt to that railroad. Consequently, the ICC was asked to review the proposal by the Senate. What were your findings in this case, and how are they relevant to the overall issue of LBO's in the rail industry?

[The information follows:]

In its May 15, 1989, letter to Senator James Exon, which concluded Ex Parte No. 480, *Chicago and North Western Transportation Company—Transportation Ramifications of Acquisition by Japonica Partners*, the Commission concluded that asserting jurisdiction over the acquisition "may be difficult as a matter of law" and that "any attempt by the Commission to assert jurisdiction [over the securities aspect of the transaction] would result in litigation in which the Commission's chances of success are questionable." As to whether the leveraged buy-out transaction could succeed, the Commission noted, "CNW Corporation could be refinanced so as to accommodate more debt capital without significant risk. There are of course limits. If the Japonica buy-out were to proceed, approximately $650 million in new debt would be added to CNW. On an annualized basis, this would add additional interest expense of approximately $85 million. This figure exceeds earnings for any of the past 3 years. To avoid being overwhelmed by this debt burden, the new firm would be required to reduce principal aggressively. Japonica's takeover plan thus includes immediate and short-term asset sales which would contribute to principal reduction of approximately $115 million in the first 6 months and an additional $170 million in the next years. (Other than commuter operations, no sales of operating rail properties are included in these estimates.) Japonica also postulates further early retirement of principal through more efficient operation of the rail plant and more aggressive marketing.

"In the circumstances here, it is difficult to determine the likelihood that the post-acquisition process would proceed as projected. Japonica's analyses and proposed financing have been examined privately by firms whose capital and reputations will be put at risk in the proposed transaction, and the willingness of these firms to back the proposal is perhaps some indication of a potential for success. A deep or prolonged recession poses the greatest danger for a failure of the type that would jeopardize rail maintenance and light density service. Traffic loss and declining yields have traditionally cut deeply into rail profitability as costs do not typically fall as rapidly as traffic. Japonica has composed a "Recession Scenario" which purports to show the survivability of the firm in the face of a recession. By its analysis, the new firm would have little difficulty in maintaining present operations and servicing debt."

In assessing Japonica's "Recession Scenario," the Commission said, "it is difficult to feel secure in the recession scenario and the possibility of more serious consequences cannot be dismissed."

It is difficult to generalize the Commission's conclusions in this case to the overall issue of leveraged buy-outs in the rail industry, since the agency's analysis of Japonica's bid was based on the unique facts of the case. One point that seems clear is that placing primary reliance on debt rather than equity financing to fund a transaction is not inherently bad; rather, the question is whether the extent of the resulting debt leaves the acquired entity vulnerable to insolvency. In two cases—one involving acquisition by a noncarrier and the other acquisition by a carrier—the Commission carefully reviewed the new debt structure and concluded that the acquired carriers would be viable with the higher debt levels. See *Blackstone Cap. Partners—Cont. Exempt.—CNW Corp. et al.*, 5 I.C.C.2d 1015 (1989); and *Rio Grande Industries, et al.—Control—SPT Co., et al.*, 4 I.C.C.2d 834 (1988).

Mr. LEHMAN. In November 1989, you issued Directed Service Order No. 1508, which required continued service in Illinois and Missouri along the Chicago, Missouri and Western Railway. The railroad has proposed to discontinue service due to bankruptcy. Some believe that this case exemplifies what can happen when a leveraged buyout goes sour in the railroad industry. What are the particulars in this case, and what was ICC's role?

Mrs. MACKALL. Eventually, everything worked out, we're happy to report. The Commission considered two sales of the lines of the CM&W. The lines were sold by the trustee while it was in reorganization and under the auspices of the Federal bankruptcy court. The sale of the two lines successfully completed the trustee's plan of reorganization.

The Commission authorized the transfer of a 250-mile line between East St. Louis and Chicago to a subsidiary of Rio Grande Industries. Rio Grande paid $22 million in cash and assumed $7 million of CM&W indebtedness.

The sale of CM&W's remaining 402-mile east-west line was also authorized by the Commission in December. The purchaser is a subsidiary of Wertheim Schroder & Company. The transaction was handled under abbreviated procedures, and it was unopposed.

CAPITAL STRUCTURE RATIO DATA

Mr. LEHMAN. Provide for the record some data on the capital structure ratio of different industry groups, including railroads, which would make railroads attractive LBO targets.

[The information follows:]

Selected Capital Structure Ratio Data
By Industry Group
Ranked in Descending Order
1989

Industry	Long-Term Debt	Equity	Total Capital	Capital Structure Ratio
Iron & Steel	11,166	6,079	17,245	64.75%
Other Nondurable Mfg.	7,611	5,192	12,803	59.45%
Stone, Clay, & Glass	17,928	13,422	31,350	57.19%
Textile Mill Products	9,767	9,715	19,482	50.13%
Food	98,195	108,589	206,784	47.49%
Primary Metals	22,212	25,066	47,278	46.98%
Printing & Publishing	38,560	45,711	84,271	45.76%
Rubber & Misc. Plastics	9,859	12,282	22,141	44.53%
Mining	23,001	30,199	53,200	43.23%
Fabricated Metal Products	18,273	24,848	43,121	42.38%
Other Durable Mfg Ind	13,060	18,112	31,172	41.90%
Paper Products	29,974	43,230	73,204	40.95%
Nonferrous Metals	11,046	18,987	30,033	36.78%
Nondurable Wholesale	22,847	40,308	63,155	36.18%
Industrial Chemicals	28,414	52,504	80,918	35.11%
Chemicals	61,118	120,012	181,130	33.74%
Instruments	23,533	46,353	69,886	33.67%
Petroleum & Coal	66,256	131,318	197,574	33.53%
Aircraft & Missles	15,128	36,656	51,784	29.21%
Machinery Except Electrical	45,505	115,939	161,444	28.19%
Durable Wholesale	16,876	43,457	60,333	27.97%
Transportation Equipment	43,916	114,420	158,336	27.74%
Electric & Electronics	28,799	78,800	107,599	26.77%
RAILROADS	**9,253**	**25,826**	**35,079**	**26.38%**
Motor Vehicles & Equipment	26,225	76,199	102,424	25.60%
Drugs	7,852	26,033	33,885	23.17%

NOTES

Railroad data are from Fourth Quarter, 1989 "Quarterly Condensed Balance Sheets" submitted to the Commission. Railroad data are preliminary.

Data for other companies are from the Bureau of the Census' Quarterly Financial Report for the Third Quarter of 1989.

Manufacturing firms are those with assets over $25 million.

Wholesale and mining firms are those with assets over $50 million.

Data for retail firms not available.

PROPOSED LEVERAGED BUYOUT LEGISLATION

Mr. **Lehman**. Provide a summary of the ICC position on S. 1005 and H.R. 2364, which deal with the LBO/railroad issue.

[The information follows:]

The Commission stated in testimony submitted to the Subcommittee on Surface Transportation of the Senate Commerce Committee on June 22, 1989, that the Commission was divided on the merits of these bills. The Commission noted that under current law, it has jurisdiction to authorize the unification of control of two or more rail carriers, either directly or indirectly (49 U.S.C. 11343) and to approve the issuance of securities by a rail carrier (49 U.S.C. 11301). If a leveraged buyout (LBO) of a Class I railroad is structured in a manner that would not trigger jurisdiction under either of these sections, Government review of the transaction (other than that exercised by the Securities and Exchange Commission) would be unlikely. The Commission observed that the House counterpart, H.R. 2364, did not indicate how the Commission was to weigh the various factors the bill required it to take into consideration in reviewing LBO's. The Commission also noted that the bill does not provide the Commission with guidance as to how much of an increase in dividends or fixed charges would be permissible under the legislation.

Current versions of both S. 1005 and H.R. 2364 call for the Commission to promulgate interim rules implementing the legislation within a very short timeframe. The Commission is prepared to implement the legislation if a bill is enacted.

UNIFORM RAILROAD COSTING SYSTEM

Mr. **Lehman**. The ICC has recently finished development of computer software which is expected to allow users to quickly calculate the cost of individual rail shipments based upon the Uniform Railroad Costing System (URCS). You held a seminar in November 1989 to teach users how to use this system. How many attended that seminar—are you satisfied that the URCS computer capability will be used?

[The information follows:]

The URCS seminar was attended by 41 persons representing industry and shipper interests. Although well attended, we would point out that this seminar addressed only one aspect of URCS, namely, the calculation of unit costs. As such, it was designed to provide technical guidance to costing experts on the computer programs and data used to compute unit costs.

The unit costs are calculated annually and made available to interested parties along with the applicable programs in our microcomputer-based Movement Costing Program. This program allows anyone to cost individual rail shipments. It is extremely user friendly, requiring no special training or knowledge of rail costing. This program has created widespread interest. So far, we have provided over 150 copies to individual users.

Mr. **Lehman**. The URCS programs are being distributed in two packages. Package two can be used on small, inexpensive microcomputers. However, package two needs the final data from package one, which requires a large, expensive mainframe computer to do the calculations. Will this discourage use by smaller companies?

[The information follows:]

No. Most URCS users will need package two only. This package contains data and programs to compute the cost of individual rail movements. The unit cost information used in package two is computed by the Commission's staff in package one. The results are produced annually and made available to interested parties.

Package one is an intermediate step in the URCS process and is of no interest to the majority of users who are concerned with estimating the cost of individual rail movements.

Mr. **Lehman**. Last year, it was stated that this system would make it easier for captive shippers to avoid unreasonable costs imposed upon them, and might therefore result in less litigation. Is this still the case?

[The information follows:]

Yes. The URCS Movement Costing Program (package two) is already being used by shippers to evaluate the reasonableness of railroad rates and to negotiate contracts. As URCS gains greater acceptance, its usefulness will increase. URCS is an inexpensive guide to railroad transportation costs. As such, it increases the knowledge available in the marketplace and provides a common basis from which the industry and shippers may negotiate contracts and evaluate the reasonableness of existing rates. This increases the likelihood that the parties will attain rate agreements that are fair, and it lessens the need for litigation.

Mr. LEHMAN. Expand on your answer for the record, and please include a quantifiable estimate of the benefits which might be achieved from this system.

[The information follows:]

The benefits are not quantifiable at this time. URCS furnishes the shipping public with an inexpensive tool for developing shipment cost estimates and making revenue/cost comparisons in-house. Shippers, both large and small, can determine independently the advisability of rate litigation. Shippers can also use URCS data for rate negotiation and avoid the need for litigation by negotiating equitable rates.

The marketplace functions better when both the buyer and seller have a common understanding of the economic cost of providing goods and services. This enables the parties to negotiate fair prices and to quickly settle disputes. URCS provides a vehicle for developing this understanding at a very low cost.

"RAILS TO TRAILS" PROGRAM

Mr. LEHMAN. Turning to the "Rails to Trails" program. On February 21, the Supreme Court, in *Preseault* v. *Interstate Commerce Commission,* sided with the ICC in upholding the National Trails Systems Act, which allowed the ICC to use its regulatory authority to encourage the conversion of abandoned rail corridors to recreational trails. Would you tell us the pertinent points of the Supreme Court's ruling? Who will these recreational trails be run by?

Mr. PHILBIN. The Supreme Court decided the case on February 21st of this year, and it unanimously upheld the constitutionality of the interim trail use statute, which is 16 U.S.C. 1247(d). The court first ruled that the Tucker Act is available to redress the claims of reversionary land owners, that interim trail use results in the taking of their property under the Constitution. The Supreme Court then held that the statute is a valid exercise of the commerce laws of power.

The court observed that Section 1247(d) was designed to advance two valid Congressional objectives. The first was the creation of new recreational trails, and two, the preservation of rail corridors for possible future reactivation of rail service, known as rail banking.

The court ruled that either purpose alone would be sufficient. Nevertheless, the court went on to specifically reject petitioners' argument that the rail banking purpose is a sham. Petitioners had argued that if Congress really wished to address the problem of shrinking trackage, it would not have left "Rails to Trails" conversions to voluntary agreements between railroads and potential trail users, but would have adopted a program of mandatory conversions or a prohibition of all abandonment.

The court stated that given the long history of Congressional attempts to address the loss of railroad corridors, Congress was entitled to make the judgment that every line is a potentially valuable asset, meriting preservation even if future rail use is not currently foreseen.

As to who would run those trails, do we have any information on that?

Mrs. **Mackall**. Under the statute, any public or private individual or body who is willing to assume liability for operation of the trail, maintain the trail, develop it as necessary at the beginning, and pay the taxes on it, is able if the railroad agrees, to negotiate what's called an interim trail use agreement.

Mr. **Lehman**. Would it have to be non-profit?

Mrs. **Mackall**. My understanding is all of them are. They are local trails groups, State, and national ones.

Mr. **Lehman**. What's the status of the report the Senate asked you to do last year on this?

Mrs. **Mackall**. We are working on it as we speak.

Mr. **Lehman**. How many miles of rails are abandoned each year? What portion of these miles is usable for trails?

Mr. **Philbin**. The Commission granted 35 abandonment applications covering 699 miles, 42 petitions for abandonment exemptions covering 587 miles, and 103 applications for abandonment exemptions covering 946 miles in fiscal year 1989.

The corresponding number for fiscal year 1988 was 47 abandonment applications granted, 43 petitions granted, and 71 notices approved, and those totaled 1,293 miles, 807 miles, and 897 miles, respectively.

The agency cannot estimate how many miles are suitable for trail use, some lines located in heavy industrialized areas obviously are not, as an example. The Commission approves trail use in any abandonment where a party requests it and the railroad consents. In fiscal year 1989, it approved trail use in 16 decisions amounting to 456.63 miles, and in fiscal year 1988, it approved trail use in 11 cases amounting to 415.79 miles.

Mr. **Lehman**. What has the ICC done to place conditions upon abandonments which encourage more preservation?

Mrs. **Mackall**. The Commission has done, I believe, everything possible under the law to facilitate creation of trails. In the constant debate between the trail user and the reversionary interest holder, the Commission has found for the trail user. It has declined to impose burdensome conditions on the trail operator. It has agreed to extend indefinitely, the time for the trail user and the railroad to negotiate an agreement. All it takes is somebody out there who's interested, and notice is also given for each of these lines.

ENVIRONMENTAL RESOURCES

Mr. **Lehman**. Your Section of Energy and Environment, which is responsible for reviewing rail line abandonment proposals, has been greatly reduced. How many FTE staff years do you have now to perform this work and how does that compare with the work you had five years ago?

Mr. **Guthrie**. I think we'll have to answer that one for the record, Mr. Chairman. We don't have that information.

[The information follows:]

Currently, the Section of Energy and Environment has eight full-time staff members. Five years ago, the Section had a full-time staff of nine. OTA personnel from other sections provide assistance when the caseload is unusually heavy.

Mr. LEHMAN. How much funding do you have for consultant support in this area, and is that adequate to do the job?

[The information follows:]

The Section of Energy and Environment has $50,000 for consultant support. The adequacy of this sum depends on a number of factors. We are faced with the possibility of 10 construction cases—an unprecedented number of construction projects—in the coming year. These cases often require detailed and technically complex environmental documentation. If the prospective applicants provide the necessary information, conduct needed environmental studies, and work closely with the staff, this will greatly help us to work within the $50,000 figure. Another unknown factor is the significance and complexity of the environmental issues associated with the project we are reviewing. Also, the extent of cooperation and technical input from other involved Federal agencies will affect our consulting needs. In sum, if applicants and appropriate Federal agencies are willing to provide needed environmental analyses and/or studies and the cases do not consistently involve extremely technical environmental issues, we feel the current funding for consultant support should be adequate.

SHORTLINE RAILROADS

Mr. LEHMAN. What is the current trend in the sale or abandonment of shortline railroads, and what was the final disposition of the P&LE case pending before the Supreme Court last year?

Mr. PHILBIN. The Commission has continued to encourage the entry of new regional and local railroads to promote the retention of an efficient rail service. In early 1986, the Commission issued a case called "Class Exemption for Acquisition and Operation" which permitted expedited procedures for transfer of line segments and made the imposition of labor protective conditions discretionary.

The general trend in shortline sales since the passage of the Staggers Act in 1980 had been upward until the P&LE sale, labor dispute, and court case in 1987. The number of shortline sales under the class exemption procedures in 1988 decreased significantly from 1987.

During 1988, many carriers took a wait-and-see attitude about potential line sales because of the labor issue. In an effort to consummate desired line sales while avoiding labor conflicts, several new carriers began to file their acquisition and lease applications under Section 11343 which requires mandatory labor protection. These section 11343 filings requiring mandatory labor protection have increased significantly, compared to their use prior to the P&LE case.

The Supreme Court's June 1989 decision in that case did not completely resolve questions concerning the interaction among the Railway Labor Act, the Interstate Commerce Act, and the Norris-LaGuardia Act.

While the number of new shortlines decreased significantly in 1988, there appears to be a modest increase in the level of new startups in 1989. So the problem, Mr. Chairman, remains that the Supreme Court in the P&LE case did not completely and clearly answer the question of the interaction among those three acts, and that will probably be decided by the Courts of Appeal on a case-by-case basis in the future.

Mr. LEHMAN. Please expand on your answer for the record.

[The information follows:]

Pittsburgh & Lake Erie R.R. Co. v. *Railway Labor Executives' Association,* 491 U.S. ———, 109 S. Ct. 2584 (1989), involved the sale by a small rail carrier of all 182 miles of its rail line. The Supreme Court held that the Railway Labor Act, 45 U.S.C. 151, *et seq.* does not require a company to institute negotiations with its employees over the company's decision to go out of business. 109 S. Ct. at 2593. The Court also held that a union filing of so-called Section 6 notices, 45 U.S.C. 156, proposing changes in collective bargaining agreements, did not mandate an injunction requiring the railroad to maintain the status quo and postpone the sale of the line until the intentionally drawn out procedures of the RLA had been exhausted. 109 S. Ct. at 2597. The Court found a limited duty to bargain with the union in response to the Section 6 notices which ended with consummation pursuant to Commission authorization, thus affirming the Commission's authority over the sale of rail lines to non-carrier entities in such circumstances. *id.* However, the Court disagreed with the Commission's contentions that the dispute resolution procedures of the Interstate Commerce Act should be deemed to supersede the RLA and that the Norris-LaGuardia Act, 29 U.S.C. 101, *et seq.*, must be accommodated to the Interstate Commerce Act in the circumstances of line sales pursuant to 49 U.S.C. 10901 so as to permit enjoining a strike over management's refusal to bargain in order to prevent frustration of the transaction. *Id.* at 2598. As a result, at least as to Section 10901 transactions to which it applies, the decision removes the Commission as the determinative factor in resolving labor issues that arise out of line sales under that provision.[1] The difficult labor relations issues left with respect to such transactions after this decision will be resolved, if at all, under the provisions of the RLA.

Our impression is that as a result of the uncertainties created by the P&LE decision, 10901 line sales applications have come to a virtual standstill, abandonment applications have increased, and such line sale applications as are being filed are being filed under sections 11343 or 10910 (the feeder line provisions) where the Commission's authority to supervise consummation has not been impaired as it has been under 10901.

STUDY OF SHIPPER SATISFACTION WITH SHORTLINE/REGIONAL RAILROADS

Mr. LEHMAN. Last August, your Office of Transportation Analysis, in conjunction with the FRA, completed a study which looked at the shipping industry's satisfaction with shortline and regional railroads. What were your findings?

[The information follows:]

In August 1989, the Commission's Office of Transportation Analysis, together with the FRA's Office of Economic Analysis, completed a joint staff study, entitled, *A Survey of Shipper Satisfaction with Service and Rates of Shortline and Regional Railroads.* The primary focus of the study was to determine how shippers compare the service and rates offered by their new shortline or regional carrier with those of the railroad that had previously served them. Of the 177 new railroads formed since Staggers in 1980, a carrier sample of all 14 regionals and 64 randomly selected shortlines was chosen. Then, of the nearly 5,500 shippers' names provided by these carriers, a sample of 524 shippers was surveyed. Using telephone follow-up, a 94 percent response rate was achieved. The user survey showed a clear pattern of shipper satisfaction with both service and rates offered by shortline and regional railroads. An overwhelming 94 percent of the surveyed respondents believed that service levels had been maintained or improved, while 88 percent indicated that rate levels had improved or stayed the same. Additional data were gathered concerning commodities, carloads, inbound/outbound traffic, ownership, shipper size, rail share, transportation options, and years of service.

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[1] What is not clear in the wake of the decision is how broadly it will be applied. Rail labor apparently wishes to construe it as applying only to out of business sales and not single line sales. The loss of the right to a status quo injunction to block a Section 10901 sale pending negotiation under the RLA is a serious loss to rail labor's bargaining strategy. A crucial question remaining for consideration is whether the decision will apply to all Section 10901 sales or be limited in application. In our view the Supreme Court will allow the various courts of appeals to determine, at least for now, the reach of P&LE.

Mr. LEHMAN. The Committee understands that the shortline and regional railroads in general are working hard to satisfy their customers and to expand their business base. Would you agree, and does your study support this concept?

Mr. PHILBIN. According to what I know about it, I would agree that that is, in fact, true. Perhaps the staff has more detailed information on the subject. Apparently not.

Mr. LEHMAN. Whatever you can do for the record.

Mr. PHILBIN. Yes, sir, I will.

[The information follows:]

Based on its policy of encouraging the development of new shortlines to retain needed rail service, the Commission has long believed that local rail carriers can provide closer working relationships with their customers. While these small railroads are not required to provide accounting data to the Commission, we have, over the past few years, questioned numerous shortlines and used other data sources to gather carload information. Many of these new shortlines have shown growth in traffic levels over those attained by the previous carrier. This is likely the result of better and more personal customer service, which is confirmed by the high levels of shipper satisfaction demonstrated in our study.

Mr. LEHMAN. Please provide for the record a copy of the executive summary of that report, entitled "A Survey of Shipper Satisfaction with Service and Rates of Shortline and Regional Railroads", as well as the bar charts shown on pages 12, 19, and 21.

[The information follows:]

EXECUTIVE SUMMARY

The Staggers Rail Act of 1980 (Staggers Act) ushered in a new era for the U.S. freight railroad industry and its shippers. By removing obsolete and restrictive regulations, the legislation gave carriers the flexibility to react quickly to the competitive marketplace, offering shippers rate and service levels responsive to their needs. In turn, market forces have required the railroads to reduce costs and promote efficient operations in order to attract and retain traffic. Often, these efforts have led to significant restructuring, as railroads have sold unprofitable or marginally profitable lines to operators whose lower costs allow them to continue to provide service.

The increase in the number of these smaller railroads has been dramatic. Almost half of the 424 independent shortline and regional railroads in operation in mid-1989 were formed since the passage of the Staggers Act. The creation of these new carriers has been aided by the ICC, which replaced burdensome and lengthy review of these transactions with streamlined procedures that allow lines to be sold to new operators in a timely manner, before service deteriorates.

The ICC and the FRA support shortline and regional railroad growth, and have undertaken projects to monitor this emerging segment of the industry and evaluate the effect of its growth on shippers.[1] The primary focus of this study was to determine how shippers compare the services and rates offered by their new shortline or regional carrier with those of the railroad that had previously served them.[2] Additionally, we investigated whether perceived service and rate changes varied with characteristics such as shipper size and commodities shipped.

The population of new shortlines and regionals considered for this study was all 177 railroads formed since 1980 and still providing service as of October 1987 -- 14 regionals (defined as operating 250 miles or more of track) and 163 shortlines[3]. The 14 regionals operate, on average, 537 miles of track and haul about 1 million carloads annually. The 163 shortlines, with an average length of 48 miles, haul 700,000 carloads annually. The former have an average of about 215 shippers, compared to 14 for the latter.[4]

The study was conducted through a two-part sample. First, a carrier sample was chosen that included all 14 regionals and 64 randomly selected shortlines. The railroads in the sample provided lists containing approximately 5,500 shipper names and addresses. Questionnaires were mailed to a stratified sample of 627 shippers, 524 of which were subsequently identified as in-scope (those who either originate or terminate traffic on a sample railroad). Telephone follow-up helped achieve an extremely high response rate (493 out of 524, or 94 percent). The survey results are discussed below, starting on page 8, with a question by question summary of user responses presented in Appendix B and supplementary user results tables in Appendix C.

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[1] As part of this effort, FRA recently submitted a report to Congress entitled Deferred Maintenance and Delayed Capital Improvements on Class II and Class III Railroads. (February 1989)

[2] Improvements in rates should not necessarily be construed as rate reductions, but as an overall sense of improved value to the shipper for what is being paid.

[3] The ICC's working definitions of regional and shortline railoads have been adopted for this study.

[4] Figures are based on ICC profile data for shortline and regional railroads, as well as shipper information compiled from this study.

The user survey results showed a clear pattern of shipper satisfaction with both service and rates offered by the shortline and regional railroads created after the enactment of the Staggers Act, with no significant differences between responses of shortline and regional shippers. Table 1 shows that an overwhelming 94 percent of the survey respondents believed that service levels had been maintained or improved.[5] Shippers also responded favorably when asked about their current railroad's rates -- 88 percent reported that rate levels had improved or stayed the same.

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[5] The comparison scale in the survey had five ratings: much better, better, about the same, worse, and much worse. These five categories were collapsed into three -- improved, same, and worse -- in order to satisfy statistical testing requirements.

Table 1

Comparison of Service and Rates:
Existing vs. Previous Railroads

	Improved	Same	Worse	Total	Responses
Service	52%	42%	6%	100%	382
Rates	28%	60%	12%	100%	335

About three-fourths of the respondents provided at least one comment to supplement their answers to the formal survey questionnaire. Service-related comments indicated that the respondents were satisfied with the frequency of service the railroads currently offer. Some indicated that the railroad's operations were sufficiently flexible to service their needs on request, including nights and weekends. Overall, good communications appear to exist between these new railroads and their shippers, and in most cases, customers feel they are receiving responsive, personal attention.

In their rate-related comments, some shippers stated that rates had actually decreased, as a result of contracts, better routing of traffic, absorption by the railroad of more of the switching charges, among other factors. In contrast, those respondents dissatisfied with rate changes claimed that the imposition of surcharges and/or high demurrage charges were factors in their higher rates.

To see whether satisfaction ratings differed by shipper characteristics, these shipper comparisons were evaluated against other factors such as shipper size and the availability of alternative transportation. For most categories, the degree of satisfaction with service and rates was not significantly affected by such factors as shipper's size, extent of reliance on the railroad, access to another railroad, or access to other modes of transportation.

There were a few interesting exceptions to this pattern. Shippers whose predecessor railroad was a Class I indicated significantly more often that rates had improved than did shippers with prior Class II or III railroad service. An evaluation of responses by major commodity shipped revealed that receivers of grain indicated more frequently that service had improved than did receivers of pulp/paper products. Similarly, with respect to rates, receivers of grain reported improvements more often than did receivers of several other major commodity groups.

Although the intent of the questionnaire was to survey current rail users, some sampled shippers no longer used their study railroad; 56 shippers fell into this category. Twenty-five of these shippers cited unacceptable rates and/or inadequate service as principal reasons for terminating service. Among the non-railroad-related causes, seven stated that plant closings and cutbacks in operations were responsible for discontinuing service. Four other shippers cited changes in business conditions and production processes, and one commented that customers requested that lumber products be delivered by truck.

Overall, the majority of these former users stated that when they terminated use of rail service they shifted to all-truck. However, several said that they were now shipping by trailer-on-flatcar (TOFC) and a combination of truck and TOFC, using a railroad other than the study carrier.

In conclusion, the user survey results found a clear pattern of shipper satisfaction with both service and rates offered by the shortline and regional railroads created after the enactment of the Staggers Act. The surveyed shippers clearly believed that their current rail service had improved or stayed consistent with prior levels. Additionally, most appeared to believe that rate levels had not deteriorated.

CHART 3

COMPARISONS OF SERVICE AND RATES
FOR EXISTING VS. PREVIOUS RAILROAD

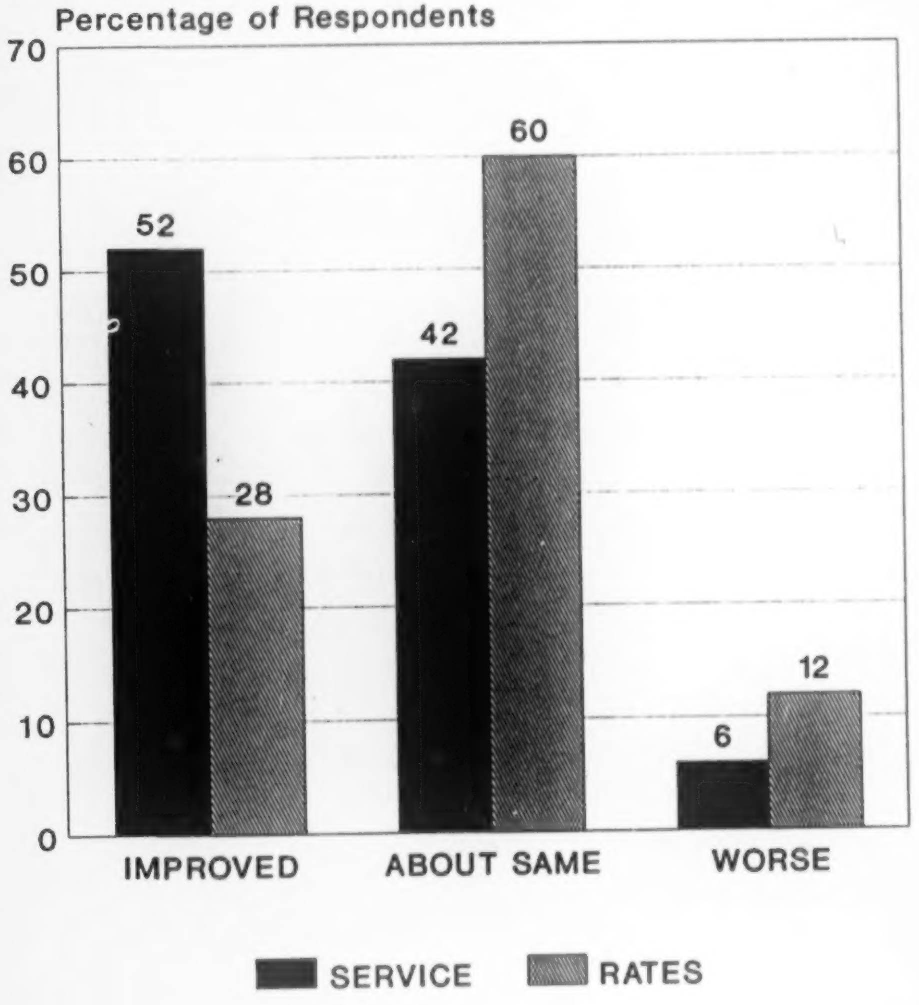


CHART 4
RATE COMPARISON BY CLASS OF PREVIOUS RAILROAD OWNER

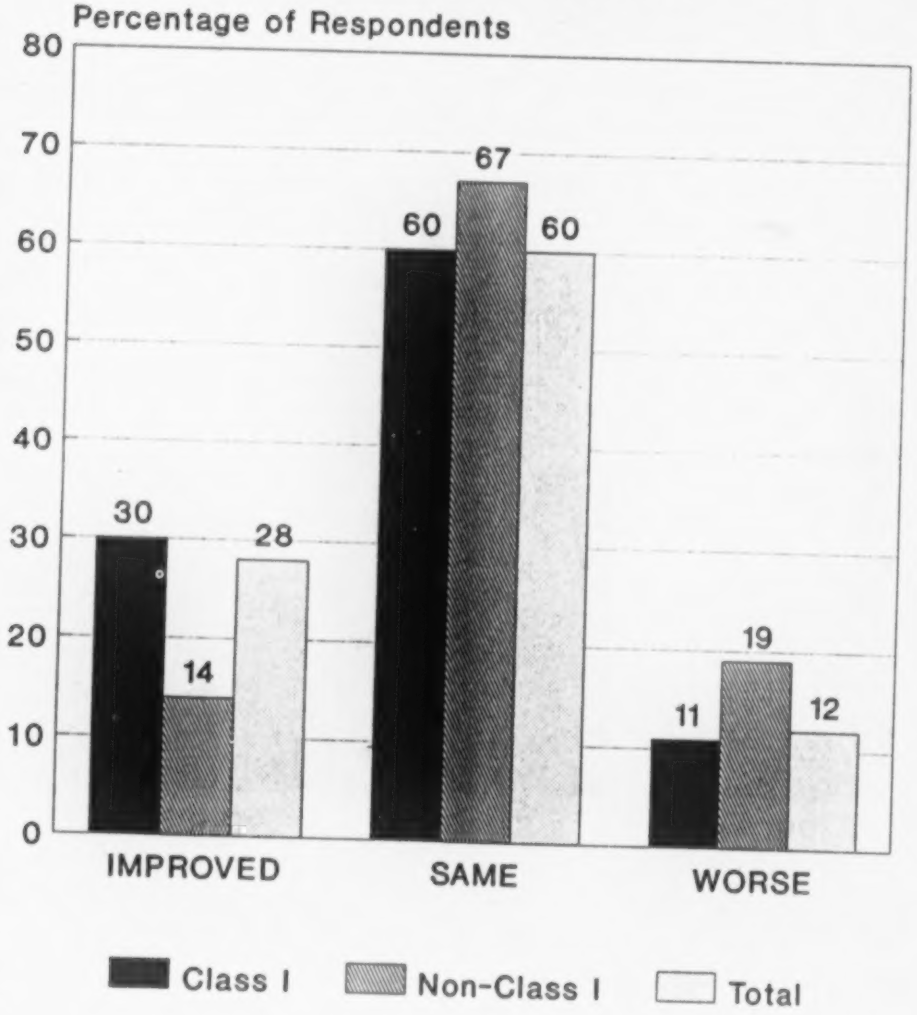
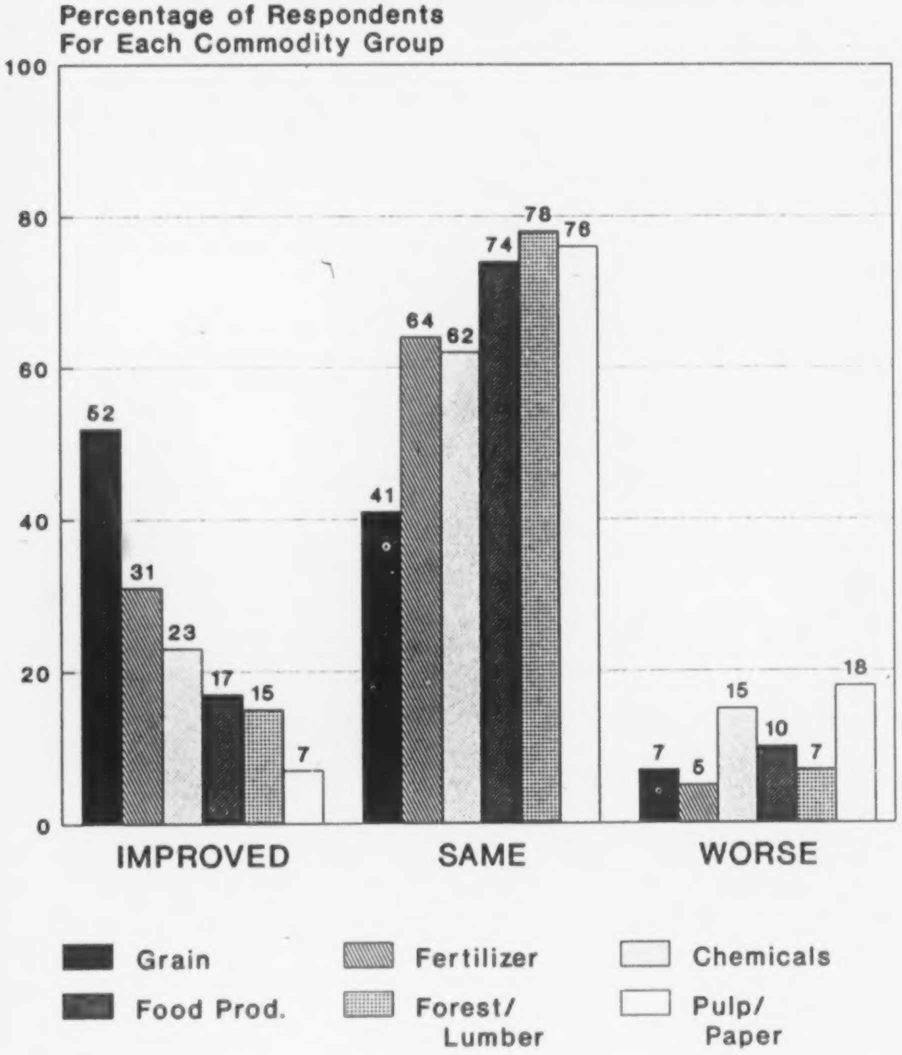


CHART 6

RATE COMPARISON BY MAJOR COMMODITIES RECEIVED



(Percentages round to the nearest whole percentage)

UNION PACIFIC BRANCH ABANDONMENT—WASHINGTON

Mr. **LEHMAN**. Speaker of the House Tom Foley and the Governor of Washington have requested an appearance before the ICC to address the Union Pacific's proposed abandonment of two branch lines near Spokane, which they believe will harm the agricultural industry in that area. What is the issue in this case, and what is your schedule for hearing it? Do you intend to delay the proposed abandonment until you have had a chance to review the case?

Mrs. **MACKALL**. The statutory deadline for a decision on whether to investigate an abandonment was upon us. The Commission acted. The Commission ordered an investigation and there will be a local oral hearing on May 22 in Pullman, Washington.

Mr. **LEHMAN**. What is the real issue there? There's no different issue there than any other abandonment, is there?

Mr. **PHILBIN**. In this particular area, as I remember it, there was quite a lot of protest from the local area, which to me, as an attorney, indicates that the people in the local area have a feeling that they have something to contribute to our decisional process. In many cases they are not sophisticated people, and their only method to get their case before the ICC is through an oral hearing.

When there are that number of protests, it seems to me that the ICC should, in fact, provide the opportunity for an oral hearing in the area in an attempt to (1) allow the people to have their day in court and (2) to collect and evaluate any information that may come out of it.

The entire Commission itself has the final decision on whether to grant an oral hearing or not if an investigation has been decided on, and I think that they are looking at that in a new light.

Mr. **LEHMAN**. There will be no decision to abandon until after you've had the hearing?

Mr. **PHILBIN**. No, sir, there will not.

Mr. **LEHMAN**. Is it unusual for the governor of the state to involve himself in this?

Mr. **PHILBIN**. I wouldn't say it's unusual, sir. It happens in some cases where the local interest is high. In other cases, it's not really. It depends; it's on a case-by-case basis. But I'm not surprised to see a letter from the governor.

Mr. **LEHMAN**. Please expand on your answer for the record.

[The information follows:]

In a decision issued March 5, 1990, the Commission ordered an investigation into a proposed abandonment by the Union Pacific Railroad of 68 miles of line in Spokane and Whitman Counties, Washington. On May 22, 1990, 9:30 a.m. in Pullman, Washington, a local oral hearing will be held. Several affected persons and organizations protested the proposed abandonment. The Union Pacific Railroad asserts that the line is a burden on interstate commerce because the line did not earn enough revenue to cover the cost of providing the service. Administrative Law Judge Paul J. Clerman, who will chair the hearing and consider the evidence, will issue a decision on the abandonment applications by July 3, 1990, the statutory deadline. Judge Clerman has adopted a schedule calling for the filing of statements by the Union Pacific Railroad by April 2, 1990, statements by protestants by May 1, 1990, and post-hearing briefs by all parties by June 11, 1990. The railroad may not abandon the line until the Commission authorizes it to do so.

Mr. **COUGHLIN**. Mr. Chairman.

Mr. **LEHMAN**. Mr. Coughlin.

FIELD HEARINGS

Mr. **Coughlin**. Is this the usual procedure or are you setting a precedent?

Mr. **Philbin**. Well, it's not setting a precedent in a legal sense. That authority has always resided in the Commission. It has not been utilized to a great extent in recent years, the last five or six years. I have had discussions with the Commissioners about my views on it; and, of course, I take a different view as an attorney.

I think that the Commission has been persuaded by my arguments that we have to take a harder look at the benefits, the utility and futility of having oral testimony in the local area. I find it has great utility, at least to the extent that the people are satisfied that they had their day in court, which I think they're entitled to have.

If we require all of these decisions to be made by filed papers, many of these people won't be able to file the papers; and I think that's kind of shortchanging the citizenry. So I think in the future we will be having more oral arguments, oral hearings, in the local area than we've had in the past, and I think that's all to the good.

Mr. **Coughlin**. Thank you, Mr. Chairman.

RAILROAD LABOR CONTRACTS

Mr. **Lehman**. Thank you, Mr. Coughlin. On February 9, the ICC voted to consider using its authority to regulate railroad labor union contracts in the case of rail mergers. Would you explain your position in this case and the drawbacks in the current system?

Mr. **Philbin**. As you said, Mr. Chairman, in September 1989, the Commission instituted a comprehensive review of the relationship between the Interstate Commerce Act, the labor protective conditions we impose thereunder, the Railway Labor Act, and labor contracts, or collective bargaining agreements.

Briefs were filed, oral argument was held before the full Commission on January 4 of this year, and the Commission voted on several major issues at a February 9 open voting conference. We expect a draft decision reflecting this vote with recommendations on the remaining issues very shortly.

The only significant drawback is the extensive litigation over the rights of labor, which is seeking to enforce contracts, and management, which is seeking to modify contracts to facilitate mergers, and that has become extremely prevalent in the last few years.

The advantages are a generous program of benefits for employees affected by mergers and a procedural mechanism for promptly resolving disputes and permitting mergers to proceed.

Mr. **Lehman**. Provide a schedule for ICC consideration of this subject.

[The information follows:]

The Commission voted on the major issues involving rail labor contracts and mergers at a February 9, 1990, Open Voting Conference. On March 20, 1990, the Office of the General Counsel submitted to the Commission a draft decision reflecting this vote with recommendations on remaining issues.

CLASS I RAILROADS INCOME TAX DATA

Mr. **Lehman**. Please update for the record the data on railroad income taxes found on page 917 of last year's hearing record.

[The information follows:]

The chart identifies those Class I railroads which did not pay any Federal income taxes in 1988.

CLASS I RAILROADS NOT PAYING INCOME TAXES FOR 1988

[In thousands of dollars]

Railroad	Income before extraordinary items	Provision for deferred taxes	Federal income taxes	Total railway operating revenues
Boston and Maine	(5,035)	0	0	65,554
Grand Trunk Western	2,512	3,535	(2,828)	324,959
Missouri-Kansas-Texas	17,898	2,500	0	160,605
Southern Pacific	225,424	56,757	(19,399)	1,948,050

Source: ICC Transport Statistics in the United States for the year ended December 31, 1988.

Note: Amounts in parentheses under income tax columns represent negative income tax expense. Negative or zero income tax paid can result from one or more of the following: net loss from operations, accelerated depreciation for tax purposes, and tax loss carryforwards. Negative income tax expense can represent refunds due from the Internal Revenue Service or the amounts due from affiliated companies in connection with tax allocation agreements pertaining to the filing of consolidated income tax returns.

DELAWARE AND HUDSON RAILWAY

Mr. **Lehman**. At this time, I yield to Mr. Coughlin for the Delaware and Hudson Railway questions. I think that's a pretty sensitive area.

Mr. **Coughlin**. You recently intervened to continue service of the Delaware and Hudson Railway through February 23, 1990. Can you update us on the current status of the D&H situation?

Mr. **Philbin**. Yes, sir. That's a subject of great interest to the ICC at the moment, and Mr. Gaillard will give you the details on the update.

Mr. **Gaillard**. Mr. Coughlin, briefly, on June 20, 1988, the Delaware and Hudson filed a petition for reorganization under Chapter 11 of the bankruptcy code in the U.S. District Court for the District of Delaware. They notified the Commission that its operations would terminate on June 23, 1988.

By orders of June 22 and June 23, 1988, respectively, the Commission found that D&H's impending cessation of service met the statutory criteria for directed service. By Directed Service Order No. 1504, the Commission authorized the New York, Susquehanna and Western Railroad to operate the entire D&H system, including service over existing trackage rights. The order specified that the operation by Susquehanna would be authorized without Federal subsidy or compensation.

The statutory period for directed service was to expire on February 13, 1989. However, on February 10, 1989, the Commission decided Service Order No. 1506, which permitted the Susquehanna to operate the D&H under emergency provisions for 30 days while the Commission considered an extension of the authority.

On March 14, 1989, by Supplemental Order No. 1 to Service Order 1506, the Commission extended the Susquehanna's authority to operate the lines of the D&H for one year.

On January 22 and February 1, 1990, respectively, Susquehanna filed letters with the Commission giving notice that it would be unable to continue service on the D&H beyond February 14, 1990, due to the termination of its non-Federal subsidy agreements.

On February 14, 1990, due to the withdrawal of the Canadian Pacific Rail's (CP) purchase offer and the absence of subsidy agreements, Susquehanna filed a petition with the Commission offering to operate a joint authority arrangement with Lackawanna Valley Railroad and the North Shore Railroad Company to cover specific segments of the D&H, not the entire system.

Joint operations were authorized for two days while the Commission held a hearing on continuation and were subsequently extended to March 23, 1990.

On February 25, 1990, the D&H trustee notified the Commission that it would resume service of the entire system for a 30-day period, or until March 29 of this year. That operation began on February 28, 1990 and continues today.

We understand from our latest report as of yesterday that CP has now submitted a subsequent offer of purchase which does include some provision apparently for trackage rights over Conrail. I understand that negotiations are continuing as of yesterday at high levels of both railroads, and we hope that some arrangement can be made to resolve this matter in the next 15 or 16 days.

I understand there's a 15-day fuse in there on this new offer, but we don't understand exactly when the clock begins to run on that 15 days. We assume that it corresponds somehow with March 29, the deadline set by the bankruptcy court on the D&H sale.

Mr. COUGHLIN. But Conrail and the D&H are still in negotiation?

Mr. GAILLARD. That's our understanding. Conrail and the CP. And I'm sure D&H.

Mr. PHILBIN. The trade press has indicated that Senator D'Amato is conducting discussions between D&H and Conrail on some access issues but that's in the open press. We have no specific knowledge about that or the progress of his conversations, if they are in fact going on.

Mr. COUGHLIN. What is the federal subsidy for directed service, if there is any? Is there any federal subsidy?

Mr. PHILBIN. There are two forms. The form that has been used with the D&H is one where another railroad company will come in and essentially volunteer to take over the operation of the railroad under ICC authority, which we grant depending on the particular case.

There is another provision of the Interstate Commerce Act which permits compensation for a railroad operating in that fashion, but that has fallen into disuse in recent years, and my understanding is that we have no funds for that purpose at present or in the last few years.

Mr. COUGHLIN. Is that because of the cap?

Mr. PHILBIN. Sir?

Mr. COUGHLIN. Is that because of the cap we have on it?

Mr. PHILBIN. It just was not funded or perhaps not requested.

Mr. GUTHRIE. As I recall, the provision reads that we can't authorize under that provision anything that might be expected to exceed an arbitrary amount, and I don't recall what the amount is, but it's rather nominal. So essentially it precludes authorization under that section.

Mr. **Coughlin**. The cap is $475,000.

Mr. **Guthrie**. Yes, sir. I've just been told that.

Mr. **Coughlin**. And you mentioned a moment ago a non-federal subsidy. What is a non-federal subsidy? I'm glad to see that someone else is the middle.

Mr. **Gaillard**. Over the last couple of months in the D&H situation, there has been a willingness on the part of private parties to subsidize parts of these operations, sir, particularly with the Susquehanna.

Mr. **Philbin**. As I understand it, some of that money came from the State of New York, some from the State of Pennsylvania, and from some other private interests as well. It was a coalition of people who were trying to keep the railroad in operation.

TRAILER TRAIN ANTITRUST IMMUNITY CASE

Mr. **Coughlin**. Last year, you advised the Committee that you expected a final decision in the Trailer Train Corporation's request to continue its antitrust immunity status around June 1989. Did you render a final decision, and if so, what was it?

Mr. **Philbin**. On June 26, 1989, the Commission issued a final decision effective July 26, 1989, which extended for five years the existing antitrust immunity for pooling railroad flatcars. The Commission excluded from the extension Trailer Train's preexisting authority to assign cars or purchase cars that are to be allocated to particular railroads, and the Office of Compliance and Consumer Assistance will monitor compliance. That's Mr. Gaillard's operation.

The five-year extension was granted instead of the requested 15-year term because of the dynamic market and regulatory climate, particularly in intermodal service. Simplified notice procedures were adopted for railroads withdrawing from the pool, or additional railroads joining the pool.

Mrs. **Mackall**. As we understand it, things are working very well with Trailer Train.

COAL RATE DECISIONS AND PENDING CASES

Mr. **Coughlin**. Please update for the record the table shown on page 906 of last year's hearing record, which shows coal rate decisions made by the ICC and pending coal rate cases.

[The information follows:]

Since January 1, 1989, five coal rate cases (handled in four proceedings) have been closed. Two of the closed cases involved matters that were reopened on remand; two were pending on January 1, 1989; and one was filed in 1989. As of March 16, 1990, six coal rate cases (being handled in four proceedings) were pending, including one new case filed in 1989.

The five closed cases are:

Case No.	Title and history
No. 36114	*Potomac Electric Power Co.* v. *Penn Central R. Co.* with No. 36114 (Sub-No. 1) *Potomac Electric Power Co.* v. *Conrail.*

Case No.	Title and history
	2/17/89—reversed and remanded. 6/30/89—decision of 10/19/87, awarding reparations vacated and proceeding discontinued.
No. 37931-S	*Metropolitan Edison Co.* v. *Conrail.* Filed 3/26/81. Pre-7/29/87—in negotiations, discovery in progress. 7/27/88—ALJ decision finding market dominance and rates reasonable. 3/22/89—Market dominance finding affirmed; single-line rates found reasonable joint-line portion held open for complainant to advise if it wished to proceed with joint-line portion. 7/6/89—Dismissed at request of complainant.
No. 38301-S (Sub-No. 1)	*Westmoreland Coal Sales Co.* v. *Denver Rio Grande Western.* Filed 3/27/81. Pre-4/3/87—in negotiations. 9/26/88—ALJ decision finding no market dominance. 8/4/89—ALJ finding of no market dominance upheld, proceeding dismissed.
No. 40228	*Kaiser Aluminum & Chemical Corp.* v. *CSX Transportation, Inc.* Complaint filed 5/22/89. Proceeding dismissed 1/5/90 because the parties settled.

The six pending cases are:

Case No.	Title and status
No. 37038	*Bituminous Coal, Hiawatha, UT, to Moapa, NV; with No. 37409, Aggregate Volume Rates on Coal, Acco, UT, to Moapa, NV.* 10/12/89—Utah Ry. dismissed as defendant; prior market dominance findings reaffirmed; additional evidence/comments requested on reasonableness presentation. 12/6/89, statement dates postponed until discovery completed. 3/13/90, new filing dates set, discovery to be completed by 3/31/90.

Case No.	Title and status
No. 37063	*Increased Rates on Coal, L&N;* with No. 38025, *Dayton Power and Light* v. *L&N.* Record reopened on 12/14/88 for further evidence on issue of market dominance for the period after 6/21/82. Discovery completed and additional market dominance evidence filed. 11/20/89—CSXT's motion to reopen on issue of market dominance for period prior to 6/21/82 denied. Draft decision on post-6/21/82 market dominance issues under review.
No. 38301-S	*Coal Trading Corp. et al.* v. *B&O.* 1/31/90—Defendants found market dominant over 3 of 4 complainants; framework outlined for determining reasonableness issues; and additional comment dates set. Complainants' petition filed 2/14/90 as supplemented 2/27/90 for modification of the 1/31 decision. Statement filing dates postponed on 2/21/90. In a voting conference on 3/1/90 the petition of 1/31 was referred to the Office of Hearings for resolution by an Administrative Law Judge of the issues raised.
No. 40224	*Iowa Power and Light Co.* v. *Burlington Northern Railroad Co.* Complaint filed 4/27/89. Discovery being supervised by an Administrative Law Judge. 11/9/89—Request to hold proceeding in abeyance pending resolution of contract litigation, or to bifurcate issues denied. 2/16/90—reconsideration of 11/9 decision denied.

COAL PRICE AND RATE DATA

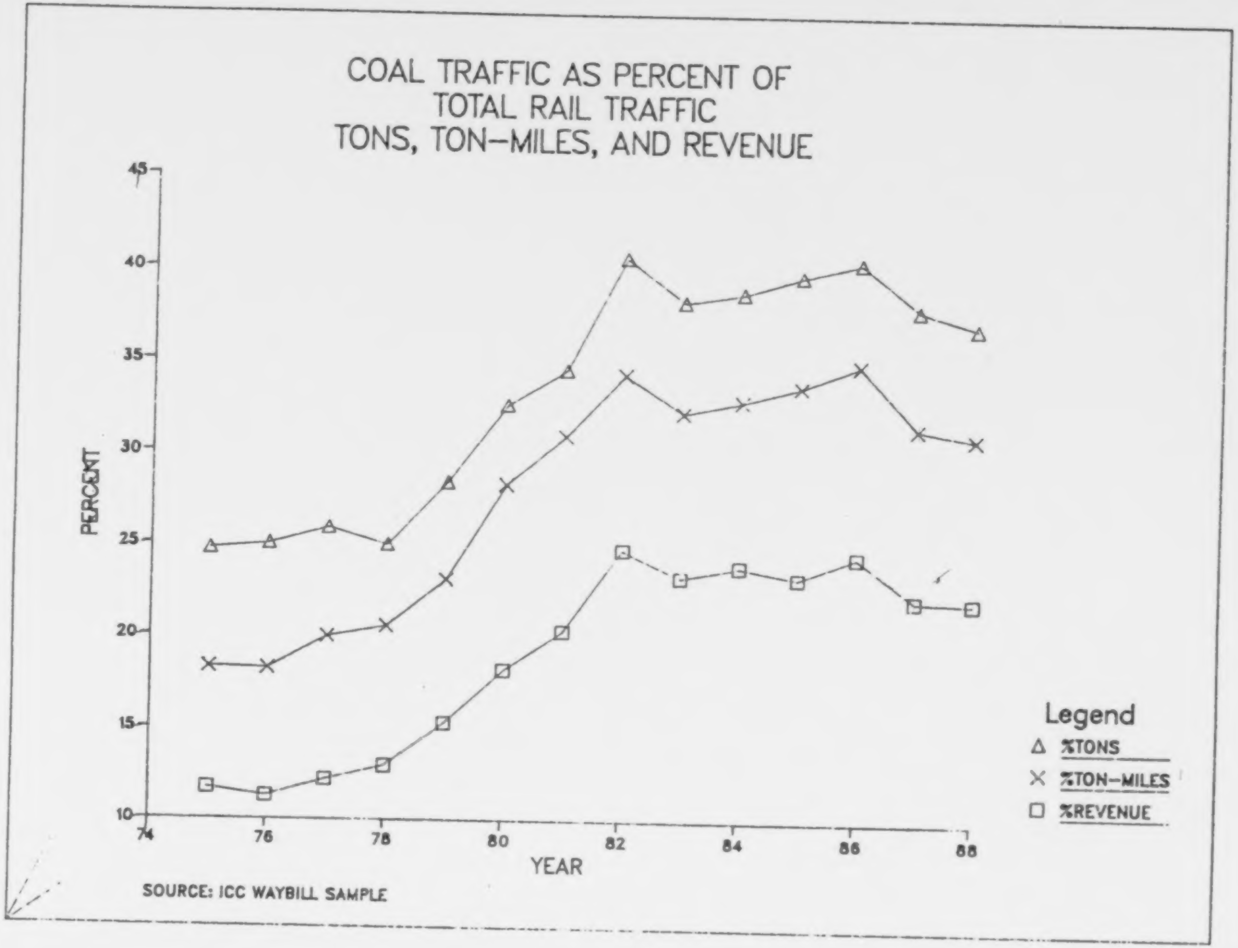
Mr. COUGHLIN. Please also update for the record the coal price and rate data found on pages 912-915 of last year's hearing record.

[The information follows:]

COMPARISON OF ALL RAIL TRAFFIC AND COAL TRAFFIC

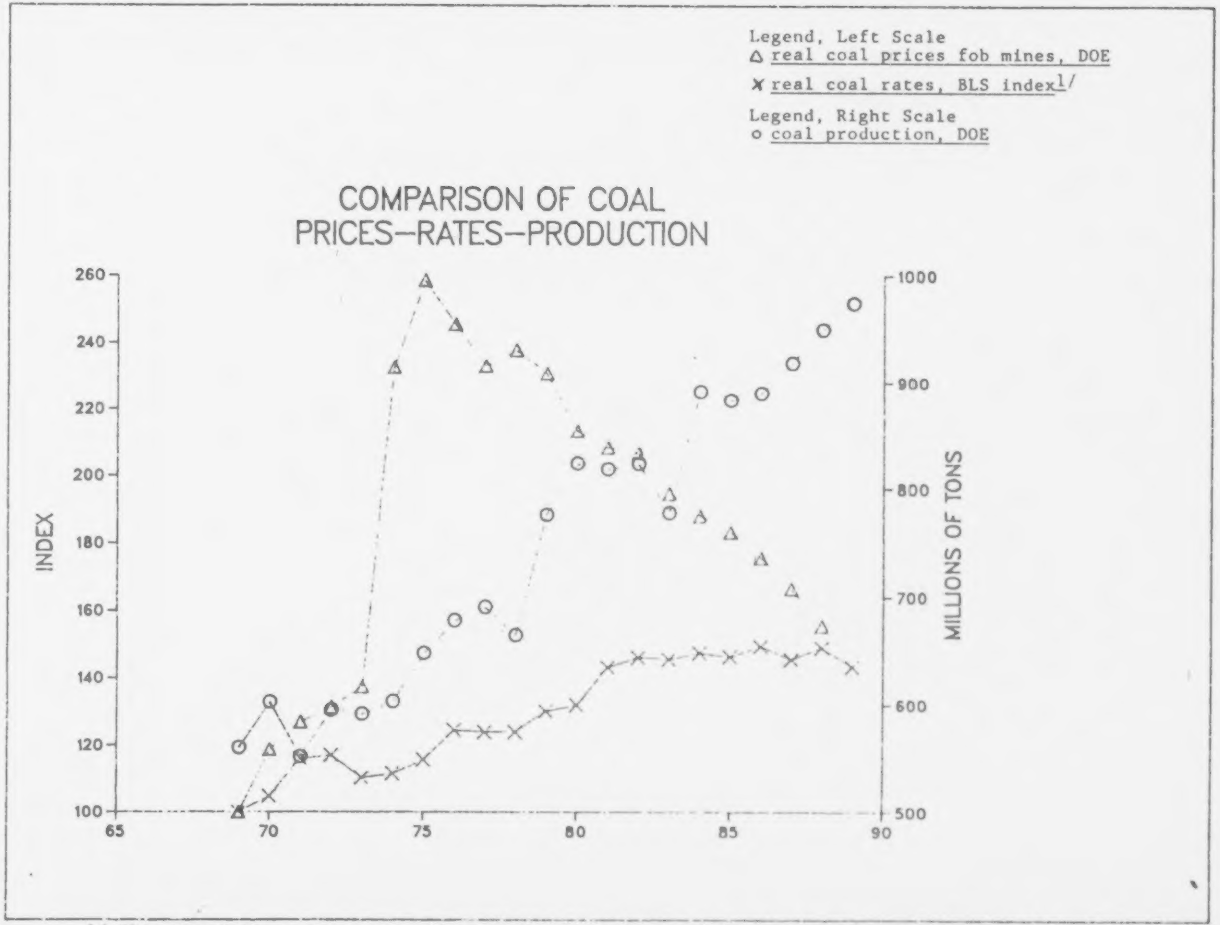
	All Rail Traffic (in billions)			Coal Traffic (in billions)			Percent Coal of All Traffic		
YEAR	TONS	TON MILES	REVENUE	TONS	TON MILES	REVENUE	TONS	TON MILES	REVENUE
1988	1.654	996.7	$31.1	.6228	318.1	$6.857	37.65	31.92	$22.06
1987	1.561	925.0	28.9	.5920	291.6	6.382	37.92	31.52	22.10
1986	1.441	821.2	26.2	.5830	286.6	6.413	40.44	34.91	24.46
1985	1.454	847.7	28.8	.5770	286.2	6.697	38.68	33.75	23.26
1984	1.444	805.2	27.8	.5596	265.1	6.639	38.75	32.92	23.88
1983	1.291	728.8	24.63	.4940	235.2	5.730	38.26	32.27	23.26
1982	1.257	705.7	24.18	.5103	242.3	5.988	40.60	34.33	24.76
1981	1.362	673.8	25.47	.4705	208.6	5.165	34.54	30.96	20.28
1980	1.406	677.3	23.01	.4588	191.7	4.176	32.63	28.30	18.15
1979	1.411	673.3	21.05	.4006	155.3	3.218	28.39	23.07	15.29
1978	1.317	623.4	17.87	.3287	127.9	2.315	24.96	20.52	12.95
1977	1.256	569.2	15.96	.3249	113.5	1.945	25.87	19.94	12.19
1976	1.263	552.6	14.77	.3158	100.5	1.665	25.00	18.19	11.27
1975	1.194	506.1	12.73	.2949	92.4	1.489	24.70	18.25	11.70

SOURCE: Information is generated from the Waybill Sample, which is a sample of all rail shipments terminated in the U.S. (Canadian and Mexican origins were omitted through 1983). The 1975 through 1981 Waybill Samples were processed by the Federal Railroad Administration. The 1982 Waybill Sample was processed jointly by the Federal Railroad Administration and the Interstate Commerce Commission. The 1983 through 1985 Waybill Samples were processed by the Interstate Commerce Commission.

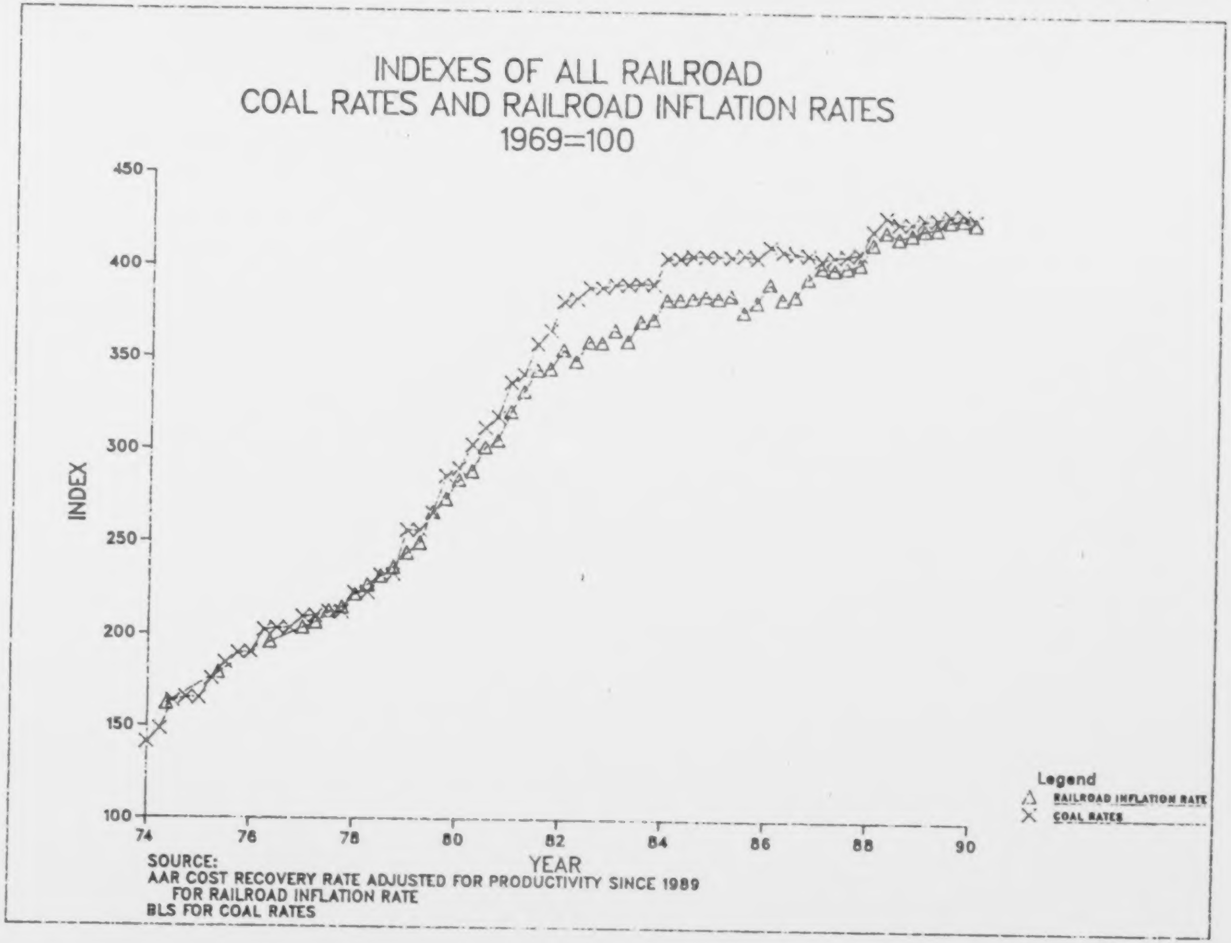


COAL TRAFFIC AS PERCENT OF
TOTAL RAIL TRAFFIC
TONS, TON-MILES, AND REVENUE

SOURCE: ICC WAYBILL SAMPLE



1/ This BLS index overstates rail rate increases for coal because of the growing use of coal contracts since 1980.



INDEXES OF ALL RAILROAD
COAL RATES AND RAILROAD INFLATION RATES
1969=100

SOURCE:
AAR COST RECOVERY RATE ADJUSTED FOR PRODUCTIVITY SINCE 1989
FOR RAILROAD INFLATION RATE
BLS FOR COAL RATES

GENERAL HEALTH OF THE TRUCKING INDUSTRY

Mr. COUGHLIN. Moving to the trucking sector, what is the current economic condition of the trucking industry and what is the outlook for the coming year?

Mr. PHILBIN. As I discussed with Mr. DeLay in general terms, it seems that the Motor Carrier Act has, in fact, been working. With the ease of entry into the industry, more and more companies came in. Some of them were not able to sustain themselves for obvious economic reasons. They were able to operate the trucks, but they had no experience in business, advertising, marketing and so forth, so there have been a number that have gone out of business. In general, service has gone up, we are informed, and the rates have gone down.

There has been some concentration of activities in a few companies but for the most part, the expansion of the trucking routes has been internal expansion rather than mergers or acquisitions.

It seems to me at least that, in general terms, the trucking industry is in fairly good health. And we can supply the details for the record.

[The information follows:]

The trucking industry closely reflects the overall economy. Therefore, the economic condition of the trucking industry in 1989 correlated closely to the modest growth of the general economy. Motor carriers began 1989 with solid first quarter improvements over last year's levels. Traffic, revenues, and profits all increased. However, by mid-year, this encouraging trend had dissipated. Preliminary full-year figures suggest 1989 performance of the trucking industry was not as strong as 1988.

If the economy expands modestly, as forecast, motor carrier ton-miles should grow about 3.5 percent in 1990. This figure reflects increases in total tonnage as well as slightly longer lengths of haul. Continued pressure on rates will make revenue per-ton-mile growth over and above inflation difficult to achieve. In light of upward pressure on labor, marketing, and other expenses, less efficient carriers will be unable to control costs enough to maintain profits. More efficient carriers should achieve modest profit growth.

STATE-OF-THE-INDUSTRY HEARINGS—MOTOR CARRIERS

Mr. COUGHLIN. You recently announced intentions to hold "state-of-the-industry" hearings in the trucking area. What are your objectives for these hearings and why are they needed now?

[The information follows:]

The Commission plans to examine the manner by which we now exert our limited regulatory control over motor carrier rate and service levels and to assess whether our exertion of this control has had its intended effects. Our examination is likely to focus on two related areas: the process by which (primarily) less-than-truckload (LTL) motor carriers use rate bureaus to file for and then put into place general rate increases and the process by which rate bureau members file and implement independent rate actions. Discounting practices as they relate to revenue need factors of general rate increases will also be reviewed.

Our intention is not to undertake an adversary proceeding. We envision simply a factfinding proceeding to assist us in defining what the Commission's role should be with respect to the ratemaking practices and procedures of the LTL motor industry in the ongoing economic environment. We have conducted such proceedings in the past and have found them to be a useful vehicle for informing the Commission.

TRUCKING INDUSTRY MERGERS

Mr. COUGHLIN. The ICC indicated last year that the wave of mergers in the trucking industry had subsided, but that a few more larger mergers might be expected. What has happened in the area of mergers over the past year, and have any significant disruptions of service resulted?

Mr. PHILBIN. For a number of years after the passage of the Motor Carrier Act of 1980, the trucking industry went through a consolidation phase in which many weaker companies either failed or merged into stronger carriers. This phase appears to be at or near an end.

In the past year or two, there have been a few significant mergers and no clear merger trends in the trucking industry. Most carrier growth has come through internal expansion rather than through merger. We are not aware of any significant disruptions of service in the motor freight industry brought about either by this consolidation phase, the recent and rather short-lived jump in diesel fuel prices, or any other events.

The only shipper service complaints after any motor carrier market exit relate to shipments caught in transit after an unexpected bankruptcy. While we have seen reports in the trade press of some greater than normal current or expected future difficulties faced by motor carriers in hiring new drivers because the drop in birth rate in the early 1970's has resulted in declines over the near term in those entry level workers, we do not have any reports of service disruptions faced by motor freight shippers.

TRUCKING INDUSTRY ECONOMIC CONDITION

Mr. COUGHLIN. Please provide for the record a discussion of the 1990 outlook for the trucking industry similar to that appearing on page 965 of last year's hearing record, and update the table shown on that same page.

[The information follows:]

The economic condition of the trucking industry in 1989 was linked closely to the slowed growth of the general economy. Motor carriers experienced some pull-back from the significant financial rebound in 1988. For example, the Commission's listing of the 100 largest motor carriers (excluding UPS) experienced an 8.2 percent increase in revenue tons hauled in 1988, but only an additional 1.6 percent increase through the first nine months of 1989. Operating revenues and net income for this group increased by 8.9 percent and 57.6 percent, respectively, in 1988 as compared to 1987 figures, while in the first nine months of 1989 operating revenues had increased by 6.7 percent over 1988 figures, and net income had declined by 16.8 percent.

Trucking's role in an expected 1990 slow growth economy should remain steady. Continued pressure on rates should make revenue per-ton-mile growth over and above inflation difficult to achieve; and upward pressure on labor, marketing, and other expenses will continue to give more efficient carriers a competitive edge.

LARGE MOTOR CARRIERS WHICH FILED FOR BANKRUPTCY AND/OR CEASED OPERATIONS IN 1989

[In thousands of dollars]

Carrier	Status	Latest available annual revenues	Year
1. Pilot Freight Carriers	Ceased Operations March 16, 1989	167,099	1987
2. Riss International Corp	Chapter XI, November 3, 1989; Ceased Operations	51,208	1987
3. Brown Transport	Chapter XI, November 1, 1989; Ceased Operations	245,397	1988
4. Holmes Transportation	Chapter XI, December 15, 1989	59,932	1988

The Commission is not aware of any significant service failures in any area of the country that have resulted from these bankruptcies.

Mr. COUGHLIN. Please update for the record the trucking industry economic performance data found on page 966 of last year's hearing record.

[The information follows:]

A comparison of the operating results of 100 of the Nation's largest trucking companies for the nine months ending September 30, 1989 (latest available data) with the same period of 1988 reveals the following:

[In thousands of dollars]

	9 months ending 9/30/89	9 months ending 9/30/88	Percent change
Operating Revenues	$14,924,509	$13,984,451	+6.7
Net Carrier Operating Income	643,826	699,042	−7.9
Net Income	321,432	386,254	−16.8
Revenue Tons Hauled	128,702	126,627	+1.6

These 100 carriers do not include the United Parcel Service (UPS) carriers, whose operations are dissimilar and highly specialized. The revenues of these carriers account for about 50 percent of the total revenues generated by the approximately 2,000 Class I and II regulated trucking companies.

MOTOR CARRIER OPERATING REVENUES

Mr. COUGHLIN. Please also provide for the record an update of the motor carrier operating revenue data found on page 969 of last year's hearing record.

[The information follows:]

The following schedule compares the total revenues generated by the 10 largest motor carriers with the total revenues generated by all Class I motor carriers for each of the years 1978 through 1988. Revenues of the two United Parcel Service carriers have been excluded in compiling these totals since their operations are highly specialized and dissimilar from the rest of the industry.

COMPARISON OF TOTAL OPERATING REVENUES TEN LARGEST MOTOR CARRIERS AND ALL CLASS I MOTOR CARRIERS

[In thousands of dollars]

	Ten largest Motor Carriers*	All Class I Motor Carriers*	Ratio of 10 Largest to Total All Class I Motor Carriers
1978	$4,821,026	$24,078,871	20.0
1979	5,468,178	26,558,469	20.6
1980	5,836,711	26,396,124	22.1
1981	6,190,455	27,904,486	22.2
1982	5,952,402	27,352,463	21.8
1983	6,846,628	28,326,858	24.2
1984	7,589,290	29,624,254	25.6
1985	7,597,831	28,131,025	27.0
1986	8,289,625	28,186,333	29.4
1987	8,638,511	28,029,148	30.8
1988	9,447,728	30,689,610	30.8

* Excludes the two United Parcel Service carriers since their operations are dissimilar from the rest of the industry and are highly specialized, i.e., pickup and delivery of small packages. Total revenues of the UPS carriers for these years are as follows:

	United Parcel Service, Inc.	United Parcel Service, Inc. (NY)	Total UPS
1978	$1,938,868	$ 836,811	$2,775,679
1979	2,321,633	977,967	3,299,600
1980	2,789,834	1,152,325	3,942,159
1981	3,289,780	1,328,653	4,618,433
1982	3,501,929	1,392,047	4,893,976
1983	3,991,481	1,581,114	5,572,595
1984	4,453,462	1,742,512	6,195,974
1985	4,898,303	1,873,005	6,771,308
1986	5,334,812	2,037,490	7,372,302
1987	5,828,293	2,220,415	8,048,708
1988	6,608,037	2,526,709	9,134,746

SOURCE: All Class I Motor Carrier data from ICC Annual Reports to Congress. Ten largest motor carriers' data from Annual Reports Form M filed by carriers with the ICC.

MOTOR CARRIER INCOME TAX DATA

Mr. COUGHLIN. Please also update for the record the data on motor carrier income taxes found on page 918 of last year's hearing record.

[The information follows:]

The chart identifies those large motor carriers of property (among the 100 largest) which did not pay any Federal income taxes in 1988.

LARGE MOTOR CARRIERS NOT PAYING INCOME TAXES FOR 1988
[In thousands of dollars]

Motor Carrier	Provision for Deferred Taxes	Federal Income Taxes Paid	Ordinary Income (loss) after taxes	Total Operating Revenues
Con-Way Eastern Express, Inc.	254	(2,038)	(3,708)	51,794
Fleet Transport Co., Inc.	0	0	(2,715)	72,683
Jones Motor Co., Inc.	0	0	1,657	68,554
Jones Transfer Company	(1,300)	(212)	(3,387)	71,996
Lyons Transportation Lines, Inc.	0	0	(512)	72,537
North Penn Transfer, Inc.	0	0	1,659	39,474
The O.K. Trucking Company	0	0	289	5,876
Refiners Transport & Terminal	0	0	(3,991)	69,039
Allied Systems, Ltd.	0	0	5,902	200,822
Alterman Transport Lines, Inc.	(710)	(416)	(17)	54,508
Altruk Freight Systems, Inc.	0	0	(2,799)	56,760
Ryder Temperature Controlled Carriage	(2,006)	(404)	(2,713)	57,181
Transus, Inc.	0	0	(384)	68,787
ANR Freight System, Inc.	792	(5,961)	6,277	468,009
Crete Carrier Corporation	0	(286)	6,585	95,939
Donco Carriers, Inc.	0	0	1,795	60,454
G. I. Trucking Company	(53)	(1,469)	(2,967)	75,001
Global Van Lines, Inc.	0	0	751	58,605
Graebel Van Lines, Inc.	100	(120)	149	66,870
Jones Truck Lines, Inc.	0	(3)	(435)	54,910
Midwestern Distribution	0	0	(3,513)	56,305
Willis Shaw Frozen Express, Inc.	0	0	4,582	51,984
Transcon Lines	205	(171)	(27,714)	266,061

Source: 1988 Annual Reports Form M filed by these carriers.

Note: Amounts in parentheses under income tax columns represent negative income tax expense. Negative or zero income tax paid can result from one or more of the following: net loss from operations, accelerated depreciation for tax purposes, and tax loss carryforwards. Negative income tax expense can represent refunds due from the Internal Revenue Service or the amounts due from affiliated companies in connection with tax allocation agreements pertaining to the filing of consolidated income tax returns. Although amounts shown under column captioned "Federal Income Taxes Paid" include State income taxes, almost all is attributed to Federal income tax.

TRUCKING INDUSTRY DEMOGRAPHICS

Mr. COUGHLIN. Some in the trucking industry believe that the pool of potential truck drivers will decline in future years and that, as a result, the industry will need to increase the number of women and minorities. What are your views in that area?

Mr. PHILBIN. Well, I think if you look at the demographic trends across the country over the next decade, that you could rationally conclude that that might very well be the case. I'm sure the Department of Transportation has specific data on that particular area. We'll seek that out and supply it to you for the record, if we may.

But at the moment, we're not aware of any particular problem in acquisition of drivers or mechanics, people of that nature.

[The information follows:]

ICC's jurisdiction does not extend to driver employees of motor carriers licensed by this agency. Consequently, the Commission possesses no data related to drivers. After contacting the DOT's Small Business Utilization Office, it was learned that DOT's interstate truck driver population statistics are not segregated by race. Nonetheless, the ICC's Office of Public Assistance (OPA) does maintain a program to identify regulated motor carrier businesses which are owned or controlled by women and minorities. Participation in this identification program is voluntary.

When first established in 1980, the program was limited to identification of minority motor carriers. At that time, the Commission was able to identify 144 minority-owned regulated firms. The program data base was expanded later to include women.

OPA's records demonstrate a slow but consistent increase in the number of active female- and minority-owned businesses possessing interstate authority. In 1987, 904 female and 562 minority records were included in the program data base. The female-owned numbers climbed to 1,103 businesses in 1988, and again to 1,223 in 1989. Similarly, firms identifying themselves as owned by minorities grew to 658 in 1988, and to 687 in 1989. From these data one might also conclude that the population of female and minority truck drivers is also on the rise.

Mr. COUGHLIN. Are trucking companies finding it hard to recruit or retain certain types of skilled workers today, such as mechanics and computer operators? Is there a big problem there?

Mr. PHILBIN. Well, as I said, the decline in birth rates in the early 1970's, coupled with a relatively tight national labor market and an ongoing effort aimed at eliminating unsafe workers from the transportation sector, have led to sporadic reports in the trade press of greater than normal current or expected future difficulties faced by motor carriers in hiring those workers, particularly drivers.

Nevertheless, we are not aware of any unusual manpower recruiting problems or any service disruptions in the motor carrier industry today. As I mentioned, the Department of Transportation, the agency which is primarily responsible for regulating motor carrier safety, and for implementing new motor carrier master driver licensing standards, would be more familiar with any existing or impending manpower problems in the motor carrier industry than would the Interstate Commerce Commission.

Mr. LEHMAN. Mr. Coughlin.

Mr. COUGHLIN. Yes.

Mr. LEHMAN. There's a surplus of MBA graduates, I understand—do you think you could persuade any of them to start being truck drivers?

Mr. PHILBIN. Sir, I'm not sure they're up to the job.

Mr. COUGHLIN. Thank you, Mr. Chairman. For the record, please provide available population statistics which show the trends in this area.

[The information follows:]

The following data from the U.S. Census Bureau's "Statistical Abstract" indicate the decline in relative and absolute size of the population group entering the labor force in recent years, from which new motor carrier employees are most likely hired. Motor carrier hiring problems may be exacerbated by the expansion of activity in the trucking industry relative to other transport sectors and the slower rate of increase in trucking industry earnings relative to increases in other industries. However, it should be noted that trucking industry employment demand represents only a small fraction of total nationwide labor force.

(1) Births and birth rates for 1960–1975 which produce new labor force entrants (ages about 18–30) in the 1988–1993 period were as follows:

	1960	1965	1969	1973	1975
Births (1,000's)	4,258	3,760	3,600	3,137	3,144
Birth Rates (per 1,000 pop.)	23.7	19.4	17.9	14.8	14.6

Source: Statistical Abstract, Table 81.

(2) Population, labor force, and employment trends for the United States and the trucking industry, including those age groups most likely to be entering the labor force are shown in the table below. The "trucking industry" data from the Bureau of Labor Statistics understate total employment in the industry in that they count neither independent truckers (owner operators) or private trucking (manufacturers, distributors, and retailers who perform their own trucking). We estimate that, were these groups included, the total would approach 3 million (less than 3 percent of the total workforce).

Year	Population		Civilian labor force millions	Trucking employment millions	Unemployment rate	
	Ages 15–19 millions	Ages 20–24 millions			U.S. percent	Trucking percent
1980	21.2	21.3	107	1.35	7.1	8.2
1981	20.5	21.6	109	1.38	7.6	8.1
1982	19.9	21.6	110	1.36	9.7	10.6
1983	19.3	21.5	112	1.43	9.6	10.6
1984	18.8	21.3	114	1.59	7.5	8.0
1985	18.6	21.0	115	1.65	7.2	7.5
1986	18.6	20.4	119	1.67	7.0	7.5
1987	18.5	19.8	120	1.77	6.2	6.1
1988	([1])	([1])	122	1.83	5.5	5.3
1989	([1])	([1])	124	1.85	5.3	5.6

[1] Not available.

Source: 1989 Statistical Abstract, Table 20 (Population); Bureau of Labor Statistics (Employment).

MOTOR CARRIER SAFETY FITNESS

Mr. COUGHLIN. We have talked for several years about ways to improve the ICC's monitoring of the safety fitness of the trucking industry. Last year, you advised us that only 1 operating revocation had been issued due to a poor safety record, whereas over 6,800 revocations had been issued due to lack of insurance. Has your record improved over the past year, and if not, why not?

Mr. PHILBIN. Pursuant to the ICC's policy governing safety fitness evidence and motor carrier licensing proceedings, all applications for new authority filed by carriers holding unsatisfactory safety ratings from DOT are rejected.

All applications seeking authority to transport passengers or hazardous materials filed by conditionally rated carriers are rejected. All other applications filed by carriers with conditional ratings are reviewed on a case-by-case basis.

Whether an application is granted or denied will depend upon the evidence of record in each case, including the carrier's presentation regarding the correction of the violations that led the Department of Transportation to assign the conditional rating.

Where circumstances suggest that a carrier's non-compliance with the Federal safety regulations warrants suspension of revocation of all of its operating authority, the Commission institutes a formal proceeding and directs its Office of Compliance and Consumer Assistance (OCCA) to develop a record in the case.

OCCA introduces evidence of safety violations obtained from DOT safety audits as well as related information from the States and offers legal arguments to support appropriate sanctions.

The Department of Transportation audits are prepared by safety inspectors and, in large measure, form the basis for the carrier safety ratings. The Commission relies upon the Department of Transportation's expertise and does not conduct independent safety inspections.

The Commission's proceedings are instituted when carriers seek to avoid the consequences of less than satisfactory safety ratings by creating shell corporations, participating in fraudulent lease arrangements, or voluntarily dismissing applications to avoid adverse safety fitness findings. Our Office of Compliance and Consumer Assistance conducts independent investigations to document these particular types of misconduct.

In fiscal year 1989, the operating authorities of two carriers were revoked because of safety violations. One was Mill Basin Transit, Inc. and its affiliate, Rapid Express Coach, both of Brooklyn, New York.

Mr. **Coughlin**. How many revocations were there because of insurance? There were two because of safety?

Mr. **Gaillard**. I don't have the number, but they are still very high, in excess of 2,000 I believe because of insurance. But if I may comment, we have said in the past that the Commission is the court of last resort when it comes to safety issues. The first line is really the Department of Transportation, which has a very comprehensive program, largely administered by the States.

When a trucking company is found to have unsafe trucks on the road those trucks are generally immediately removed. It's only when the carrier's entire operation becomes unsafe that it rises to the level of the revocation of the operating authority entirely. That's when we get involved in the process, and that's when these cases such as the two that we've cited become a matter before the Commission, to revoke the carrier's entire operating authority.

DOT over the years has listed many carriers that are rated unsatisfactory, but DOT doesn't believe that those carriers' entire operations are unsafe. If it did, we would expect, as the statute provides, that upon the application by the Secretary, they would raise that matter with the Commission and we would institute an appropriate revocation proceeding.

MOTOR CARRIER REVOCATIONS AND SUSPENSIONS

Mr. COUGHLIN. For the record, please update the data found on page 971 of last year's hearing record concerning motor carrier revocations and suspensions.

[The information follows:]

Fiscal year	Safety-related actions			Insurance-related actions	
	Revocations	Suspensions	Cease and desist [1]	Voluntary [2]	Involuntary [3]
1980				(4)	(4)
1981				407	263
1982		1		426	746
1983				322	205
1984		1		501	831
1985				679	1,450
1986	1	1		1,261	2,073
1987		1	2	1,375	832
1988	1			340	[5] 8,451
1989	2			1,660	4,463

[1] Statutory first step in revocation process.
[2] Relates to voluntary requests of carriers to revoke their authority for many reasons including insurance costs.
[3] Relates to involuntary revocations of authority because of carrier's failure to maintain insurance coverage.
[4] Not available.
[5] This number includes revocations that were delayed in FY 1987 pending implementation of a new computerized system, which now produces a separate revocation order for each type of authority revoked.

MOTOR CARRIER LICENSING PROCESS

Mr. COUGHLIN. Your new applications require that the DOT safety rating be provided. However, last year you advised the Committee that you had a ten to twenty year backlog in safety audits of existing carriers. Explain the process for investigating safety fitness, both for audits of existing carriers and for investigating new applicants.

[The information follows:]

The reference on page 971 in last year's Hearing Record related to a backlog of safety audits at the Department of Transportation, not the Interstate Commerce Commission.

Pursuant to the Commission's policy governing fitness evidence in motor carrier licensing proceedings, all applications for new authority filed by carriers holding "unsatisfactory" safety ratings from DOT are rejected. All applications seeking authority to transport passengers or hazardous materials filed by "conditionally" rated carriers are rejected. All other applications filed by carriers with "conditional" ratings are reviewed on a case-by-case basis. Whether an application is granted or denied will depend upon the evidence of record in each case including the carrier's presentation regarding the correction of the violations that led DOT to assign a "conditional" rating. The safety rating triggers the application of this policy which applies to new entrants as well as to carriers seeking additional authority.

Where no application is filed, the Commission generally relies upon DOT to challenge a carrier's safety fitness in a formal proceeding. DOT is uniquely qualified to determine which carriers have demonstrated the degree of noncompliance with the Federal Safety Regulations to support suspension or revocation of their operating authorities. Nevertheless, Commission suspension and revocation proceedings are instituted without DOT request when carriers seek to avoid the consequences of less than "satisfactory" safety ratings by creating shell corporations, participating in fraudulent lease arrangements, or voluntarily dismissing applications to avoid adverse safety fitness findings. OCCA conducts independent investigations to document these types of misconduct. Evidence of these types of activities would not normally be available to DOT. The Commission invites DOT to participate in each proceeding instituted.

Mr. COUGHLIN. Vice Chairman Simmons was concerned last year about the ICC's practice of issuing one-year licenses for carriers with "conditional" ratings, which are "based solely on the carrier's unsubstantiated claims of improved safety practices", in his words. Is this still the case? Is it a reason for concern? Why or why not?

Mr. PHILBIN. The ICC, as has been mentioned, does not issue safety ratings to motor carriers. That's a function performed by the Department of Transportation. The ICC integrates DOT's safety reviews into its licensing program, and the results of DOT's safety reviews are used to assess a carrier's safety status. The Commission has revised its safety policy in the case called Ex Parte 55 (Sub-No. 71).

In that proceeding, the Commission established a policy for dealing with carriers with less than satisfactory safety ratings from the Department of Transportation. Under this policy, the Commission rejects applications from property carriers with unsatisfactory safety ratings, passenger carriers with conditional ratings, and property carriers of hazardous material with conditional ratings.

Property carriers with conditional safety ratings may receive a one-year term certificate if they demonstrate that they have taken action to eliminate those safety violations which resulted in the conditional rating and have requested a reaudit from DOT.

In short, the Commission does not issue unrestricted authority to carriers with conditional safety ratings and rejects applications from certain conditionally rated applicants. I can tell you, sir, that in the short time that I have been at the ICC, I have been impressed with the concern and conservative approach of the Commissioners on these issues. They take a very, very hard look at these things from the safety aspect to the extent that we are authorized to do that.

Mr. COUGHLIN. You do have the flexibility to deny a one-year license on the basis of a conditional rating, right?

Mr. PHILBIN. Yes, sir, we do.

Mr. COUGHLIN. Should the ICC's Office of Compliance and Consumer Assistance be used to augment the existing investigative workload in this area? Why or why not?

Mr. GAILLARD. Right now, we think that the DOT does a better job. They have exclusive authority right now to rate carriers. I assume that's what you were referring to specifically.

We don't have that kind of expertise in-house, except to the limited extent that some of our investigators were at the Interstate Commerce Commission when we had that function prior to 1967, or they have come to us from DOT. We do have a few of those—our special agents in North Carolina, for example, in Charlotte; but we don't have the in-depth expertise to do that.

But to the extent that we have an ongoing revocation proceeding we may attempt to supplement the evidence that DOT provides with the kind of evidentiary information the State provides. That's generally our lawyers preparing legal arguments and briefs in support of a removal or a revocation of a carrier's operating authority.

Mr. COUGHLIN. Please expand on your answers for the record, and provide budget data on the number of staff-years allocated to motor carrier safety audits and investigations for fiscal years 1989, 1990, and 1991, and case backlog data for those years.

[The information follows:]

The Commission's investigators do not conduct safety audits of motor carriers. We defer to audit reports prepared by safety inspectors of the Department of Transportation who have the experience and statutory responsibility to conduct safety audits of interstate and certain intrastate motor carriers. These audit reports are used as documentary evidence in the Commission's safety fitness cases. Commission investigators are available to gather safety information from State and local authorities as well as evidence of carrier efforts to avoid Commission and DOT scrutiny. In view of the limited scope of the ICC's investigators' role in safety fitness cases, the number of staff-years allocated to safety-related investigations is relatively small. The figures for fiscal years 1989, 1990, and 1991 are 2, 1.2, and 1.2, respectively. There is no backlog of investigations relating to safety cases.

MOTOR CARRIER IDENTIFICATION REQUIREMENT

Mr. **COUGHLIN**. It's been suggested the ICC eliminate the truck identification requirement which requires display of the name and ICC identification number on both sides of every for-hire vehicle. This requirement has been in force since 1947. Why does it need to be changed?

Mr. **GAILLARD**. Yes, sir. There is a notice of proposed rulemaking that's pending before the Commission. The public comment period I'm sure has passed, and the staff is presently preparing the results of the public comments for circulation to the Commission. That should be circulated very shortly.

Mr. **COUGHLIN**. If the ICC eliminates the requirements, reportedly the Department of Transportation will step in and mandate some form of marking of for-hire vehicles. If the ICC no longer has a need for marking, why would DOT need to do it?

Mr. **GAILLARD**. Well, as I said, it's a proposal. I don't know what the Commission is going to do with it, Congressman. I would think in the absence of an ICC identification number, an MC number, DOT would propose to use its census number on the vehicles. There would be an identifier on that vehicle, whether it's ours or DOT's. Right now, some of them have both.

BACKHAULING

Mr. **COUGHLIN**. Let's turn to the issue of backhauling food in the same trucks which previously carried garbage, chemicals, or other harmful products. Does the ICC have any current responsibility over the regulation of backhauling?

Mr. **PHILBIN**. Sir, the Commission has limited responsibility. The first limitation on ICC responsibility is that the ICC regulates only for-hire motor carriers that engage in the interstate transportation of non-exempt commodities.

The most significant limitation on ICC responsibility is that the Commission has no jurisdiction over motor transportation of non-radioactive hazardous waste products. Such refuse is not considered property under Section 10521 of the Interstate Commerce Act.

The broadest basis upon which the Commission could proceed against regulated motor companies engaged in crosshauling food and garbage is Section 11101(a) of the Interstate Commerce Act which provides that motor common carriers shall provide safe and adequate service, equipment, and facilities. That section also applies to railroads.

We feel there is a potential problem. We can't quantify the size of the problem. However, we know that often the containers that carry garbage and other hazardous materials are the same containers that are subsequently used to transport food products, and motor carrier cleaning and inspection procedures have been suspect.

In addition, it's estimated that New York City alone sent 4 million tons of garbage out of State last year, and an estimated 750 trucks a day carry about 15,000 tons of garbage from New Jersey for landfill sites located in Pennsylvania, Kentucky, and Ohio.

Coupled with the need for Northeastern States to export trash to long distance landfills, trucking companies seek to obtain a backhaul from the East after delivering commodities from the Midwest. Because of the lack of information on the transportation of trash at that time, the Commission's field staff conducted a series of fact-finding reviews between the summer and late fall of 1989 of trash hauling in the New York and New Jersey areas.

Our review showed the following with respect to trash backhauled to at least one landfill: First, dry vans and refrigerated trailers have been found to have hauled trash to obtain a paying load rather than returning home empty. Second, the refrigerated units that had just emptied at a landfill and had just been washed were found to emanate strong garbage odors. Third, it was found that the standard procedure of some companies for cleaning a trailer after a garbage haul was to use a high pressure hot water system in which the water did not exceed 100 degrees Fahrenheit, and no detergent or other cleaning agent was otherwise used.

Our findings were shared with the House Public Works Committee in testimony in an August 2, 1989, hearing which was investigating the backhauling issue. We have updated our field study and testified before the House Committee on Energy and Commerce on November 8, 1989, testifying on H.R. 3520. And finally, on March 1 of this year, we provided testimony in a hearing on crosshauling held by the Senate Committee on Commerce, Science, and Transportation which was examining S. 1751 and S. 1904.

Mr. COUGHLIN. In your opinion, how big a problem is backhauling and what additional regulatory controls are needed, if any?

Mr. PHILBIN. The Commission has not documented any cases of food contamination from backhauling. We know from the field study that we have done that there is a problem. We are unable to determine the magnitude of the problem from our own data, and it seems to me if it is shown by testimony that the problem is a large one, that it might very well be within Congress' ambit to pass legislation on the issue.

More specific than that, I don't think we can be and offer you anything that's of use to you.

Mr. COUGHLIN. You have no documented cases over the past ten years of food contamination from backhauling?

Mr. PHILBIN. No, we have no documented cases. Cases of this nature are primarily health and safety matters, and the U.S. Department of Agriculture or the Food and Drug Administration would most likely have the documentation on any food contamination problems.

Mr. COUGHLIN. We understand that the Public Works and Transportation Committee held a hearing last year in which some individuals offered instances of backhauling which they believed to be potentially dangerous to public health. However, we have heard of no comprehensive study of the magnitude of this problem or its causes. To your knowledge, has such a study been conducted?

[The information follows:]

We are not aware of any comprehensive study or written report that has been made of the crosshauling of either hazardous commodities or solid waste in vehicles that are used to haul food, food additives, drugs, cosmetics, or other similar products. However, as indicated in the question, the House Committee on Public Works and Transportation, Subcommittee on Investigations and Oversight; the House Committee on Energy and Commerce, Subcommittee on Transportation and Hazardous Materials; and the Senate Committee on Commerce, Science and Transportation, Subcommittee on Surface Transportation have held hearings and developed detailed records on the backhauling issues. The Commission submitted testimony in each of those hearings based on selective types of field reviews that were conducted into the transportation of solid waste in the Northeastern United States during the summer and late fall of 1989.

TRUCKING INDUSTRY RATE SETTING REVIEW AND UNDERCHARGING

Mr. COUGHLIN. We are aware of the problems in the trucking industry with negotiated but unfiled rates between shippers and motor carriers—the so-called "undercharge" problem. Last year, the undercharge situation was described as "a mess" by Chairwoman Gradison. What is the situation today? Still a mess?

Mrs. PHILBIN. Mrs. Mackall, would you like to respond to that?

Mrs. MACKALL. The Commission has approximately 75 cases pending involving the issue of negotiated rates. The question is now before the Supreme Court. They accepted certiorari, and we certainly all hope that the Supreme Court will resolve the problem one way or another.

If it affirms the Commission's policy, we would expect that the audit companies and the carriers would stop sending the balance due bills. As a result, the entire problem would disappear.

Mr. COUGHLIN. Why don't these shippers just demand that the carriers sign a contract with them which clearly specifies the prices they have agreed upon? Are the number of these types of contracts increasing in the industry?

Mr. PHILBIN. Contracts could be signed to prevent a recurrence of the undercharge problem today. However, the undercharge suits from bankrupt carriers that we are seeing today relate to transactions that took place a number of years ago.

When the transactions took place, the shippers had no reason to believe that the carriers were not filing the rates being quoted. They were billed under the quoted rates. They paid those bills, and it was only after the carrier filed for bankruptcy that the effort to collect the filed rates occurred.

So the signing of contracts today would solve the problem for the shippers for the future, but as far as the past goes, it's still a matter of litigation and again, as Mrs. Mackall said, it's subject to the decision of the Supreme Court.

Mr. COUGHLIN. Last May, the ICC voted unanimously to allow the parties in an undercharge suit to make their case directly before the Commission, which will issue a binding ruling. Previously, ICC rulings in this area were advisory only. What is the significance of this change? What recourse do the parties have should they disagree with the ICC ruling?

Mrs. MACKALL. The significance of it is twofold: it should have impressed upon the courts that the Commission saw its opinions as binding on the courts, and since that decision, we seem to have seen more in the way of courts acceding to the Commission's point of view. There is still a conflict in the circuits, and, as I said, it's before the Supreme Court.

Mr. COUGHLIN. In December 1989, you filed a friend-of-the-court brief with the Supreme Court in the undercharge case of *Maislin Industries* v. *Primary Steel.* What is the ICC's position in that case?

Mr. PHILBIN. The *Maislin* case now before the Supreme Court is representative of the billing controversy that has developed in the highly competitive motor carrier climate created by the Motor Carrier Act of 1980. Some carriers have negotiated rates with shippers which they have charged over the course of shipments but failed to publish in their tariffs. Later, and in many cases much later, when the business relationship between the parties had ended, usually because the carrier had ceased operating, the carrier or, more often, its trustee in bankruptcy has billed and sued the shipper for retroactive collection of the higher tariff rate.

The legal controversy involves two provisions of the statute: Section 10761(a) which requires carriers to charge only the rates in their public tariffs filed with the ICC, and Section 10701 which requires that a carrier's rates and practices be reasonable.

In the past, the filed rate requirement was applied strictly so that neither carrier misquotation nor shipper ignorance of the tariff rate excused the carrier's duty to collect the filed rate. *Louisville and National Railroad* v. *Maxwell* was the landmark case standing for that proposition. That was a 1915 case.

During an era of substantial entry and rate regulation, this strict application was considered necessary to avoid intentional discrimination in favor of particular shippers. The Commission believes that in today's regulatory and competitive climate the carriers' conduct constitutes an unreasonable practice which should not be condoned by allowing the carrier to retroactively collect a greater amount than the shipper agreed to pay when it tendered its traffic.

The Commission's position is that collection of the filed rate is barred in this setting because under *Maxwell* the filed rate does not apply if it is found by the Commission to be unreasonable. Some courts such as the lower court in *Maislin* have upheld the Commission's position. Others have not, relying upon *Maxwell* for the principle that there can be no equitable defenses to the filed rate requirement.

And I can suggest to you that the Supreme Court decision is an important requirement in this area because the tension between these two doctrines is so great that although ICC takes the more equitable approach, the Federal Maritime Commission adheres strictly to the filed tariff doctrine. So a decision by the Supreme Court really is required to resolve this problem.

Mr. COUGHLIN. Apparently there are a large number of lower court rulings in undercharge cases and the results are inconsistent. Why is that?

Mr. PHILBIN. Well, in each circuit, the Court of Appeals is essentially independent to make its own judgment on the facts and the law in cases presented to it. The courts in the different circuits will normally look to similar decisions in other circuits, but they're not bound by it. And since there now is a split in the decision on essentially the same issue between the circuits, the Supreme Court under the law has to accept that jurisdiction and resolve the issue.

Mr. COUGHLIN. What's the status of the undercharging bill introduced by Congressman Glenn Anderson last September? Do you support the bill?

Mr. PHILBIN. H.R. 3243 was introduced on September 12, 1989, and referred to the Subcommittee on Surface Transportation of the Committee of Public Works and Transportation. No hearings have been scheduled.

At the request of Chairman Anderson, the Commission submitted written comments on the bill on November 1, 1989. As stated there, the Commission believes it has primary jurisdiction over the reasonableness of billing practices under 49 U.S.C. 10701. Nevertheless, the Commission has supported H.R. 3243 because it would resolve any doubt as to the Commission's jurisdiction and role in this area.

The Subcommittee should be aware that the Supreme Court may also soon resolve this matter, as we have already discussed in the *Maislin* case.

Mr. COUGHLIN. Last year, Chairwoman Gradison stated that the undercharging problem "is going to continue until we have some final result from the court that is consistent with the Commission's interpretation and until we have a legislative result". It sounds as if the ICC intends to have its way on this issue. Is that your position also?

Mr. PHILBIN. That's not my position. The decision of the Supreme Court will be binding, and the ICC will follow that decision, whatever it is.

FREIGHT RATE DISCOUNTING INVESTIGATION

Mr. COUGHLIN. You have recently announced that the ICC will soon start investigating freight rate discounting and especially the use of trucking industry rate bureaus and pricing associations. What's the problem here and what's your schedule for this investigation?

Mr. PHILBIN. The schedule for investigating the rate bureaus I can address. The Office of Compliance and Consumer Assistance field staff under the direction of a Rate Bureau Coordinator and in consultation with several headquarters Bureaus and Offices, including the Office of Proceedings, the Office of General Counsel, Bureau of Traffic, and Office of Transportation Analysis, has engaged in monitoring motor and rail carrier rate bureaus since the early 1970's.

The inspection program is divided into two parts: compliance surveys and monitoring of rate bureau meetings of the current 42 rate bureaus. Compliance surveys involve the comprehensive review of rate bureau records to determine the bureau's overall level of compliance with appropriate regulations and the bureau's Commission-approved agreement.

It has been customary to schedule and complete 18 compliance surveys of rate bureaus each year. Monitoring involves attendance at rate bureau meetings to observe the actual proceedings and the degree of compliance with the rules governing such meetings. Similar to fiscal year 1990, at least one rate committee meeting in each existing rate bureau will be scheduled for monitoring during fiscal year 1991, and no less than four meetings held by the nine major rate bureau rate committees will be monitored. It's expected that over 60 rate committee meetings will be monitored.

As I have mentioned before in response to Mr. DeLay, the Commission has recently met in open hearing and has decided to investigate the practices of the rate bureaus with respect to the independent actions being taken by its members. No schedule has been set as yet. The staff is, in fact, currently at work trying to do that.

Mr. COUGHLIN. What is the Justice Department's view of such rate bureaus, particularly as they relate to existing antitrust laws?

Mrs. MACKALL. The Department of Justice has filed a petition with the Commission seeking to revoke the immunity of one of the bureaus to handle general increases. It is of the belief that collective action *ipso facto* produces higher rates.

Mr. COUGHLIN. For the record, please include a summary of the Rocky Mountain Motor Bureau antitrust case, and include an explanation of why the Justice Department asked the ICC to revoke the limited antitrust immunity afforded to that motor bureau.

[The information follows:]

This case involves a challenge to the repeated practice of Rocky Mountain Motor Tariff Bureau member carriers cancelling their participation in collectively proposed general rate increases and implementing independent action tariffs at or about the same level as the collective rate increase. The Department of Justice believes that this practice is contrary to the purpose of the Motor Carrier Act of 1980 and the National Transportation Policy. In its view, Rocky Mountain has misused its Commission-approved collective ratemaking procedures and has succeeded in evading ICC regulation of collectively-formulated rates. It believes the resulting rates are higher than those that would be set absent collective activity. The Department of Justice has requested that Rocky Mountain's antitrust immunity to formulate general rate increases be revoked and that an interim cease and desist order be entered.

At an open conference held February 20, 1990, the Commission voted to hold these requests in abeyance pending a full review of these and other motor carrier pricing issues.

ELECTRONIC DATA INTERCHANGE OF PRICES AND SERVICES

Mr. COUGHLIN. Electronic Data Interchange refers to the electronic access by shippers to central ordering and dispatching services. Such a capability would appear to offer significant efficiencies for the motor carrier industry. What percentage of shippers are using EDI today, and what are the roadblocks to greater usage?

Mr. PHILBIN. The Commission has no specific data on the extent of the use of EDI by shippers. However, the Electronic Data Interchange Association, a shipper and carrier financed and supported organization, reports that over 7,000 North American companies are currently using EDI to some extent.

The Commission does, in fact, support greater use of that particular technology. The Commission is making an effort to facilitate the electronic exchange of carrier price and service data between carriers and the shipping public through its proposal allowing carriers to file statutorily required tariff data through electronic processes developed by the various modes of transportation.

Because of the limited utilization of electronic tariff filings at present, there are no hard data on which to base cost savings estimates. However, all modes of transportation, including the railroad and motor carrier industries, are undertaking efforts to develop procedures for electronic tariff filings in anticipation of reduced costs.

Over the last five and a half years, the Federal Maritime Commission has done a very detailed study on electronic tariff filings and a system they call the Automated Tariff Filing Information System. It was a very, very careful approach in which I was involved for a number of years, and they have finally come to a conclusion which seems to satisfy both the concerns of the industry and also of the Congress with regard to that system, and are about to start a pilot project to implement the system.

I am going to ask the ICC staff to get together again with the FMC experts in this area and see if there is not some benefit that we can draw from that extensive and detailed study since our operations in that regard, at least, are very, very similar. And I would suspect that we can benefit from the work that has been done at FMC and perhaps improve our own operation.

Mr. COUGHLIN. Do you support greater use of EDI, and if so, does the ICC have a role in promoting it?

[The information follows:]

Yes. We believe EDI offers the opportunity for carriers to improve the transportation services they provide to the public. There are definite possibilities for both the carrier and shipping public to experience cost savings through EDI. The Commission will continue to play a role in promoting EDI. Railroads are now able to file tariff data electronically, which facilitates the exchange of rate (transportation cost) data between shippers and railroads.

ELECTRONIC TARIFF FILING SYSTEM

Mr. COUGHLIN. A little over a year ago, you began allowing motor carriers to file tariffs electronically. Your one-year transition period for this new system ended in January 1990. How is the electronic tariff filing system working and how many used it?

Mr. PHILBIN. In fact, the Commission allowed both motor carrier and railroad carriers to file tariffs electronically but, thereafter, the Commission stayed the motor carrier portion of it, essentially because of the requests of the motor carrier industry. We are, in fact, now allowing railroad carriers to file electronically their own tariffs on their own equipment, which is housed at the ICC.

I don't have any specific information on how well that is working or how many have used it. We can supply that for the record, but in discussing the matter with the head of the Bureau of Traffic, he has indicated there have been no particular problems with it.

The other data we can supply for the record, if that's acceptable.

[The information follows:]

There has been limited use of the electronic tariff filing process by the railroads to date since the one-year transition period did not begin until November 8, 1989.

Because of the limited implementation, the Commission hesitates to evaluate the system now. Two railroads have actually filed tariff data electronically—Conrail and CSX Transportation, Inc. One is a mileage determination tariff, and one is a rate tariff. We are in the discussion stage with two other railroads as well as a railroad-owned organization that is working for the railroads on various other applications of EDI.

Mr. COUGHLIN. Why did the motor carrier industry want out?

Mr. PHILBIN. There were so many diverse interests, large carriers, small carriers, different systems that had grown up independently. I think for the most part they were concerned with an undue burden being placed on them by the Interstate Commerce Commission. They wanted to have time to operate within their own industry and associations to determine their own needs.

The same thing happened in the maritime industry prior to the FMC going into this study, and as a result of that study and the input of the maritime industry, they found that there were benefits to the industry to standardize the format and utilize that format for their own purposes as well as for the statutorily required FMC purposes. I think something similar might happen with the motor carriers, although at the moment, it is not being pushed by the ICC. We're concentrating on the railroads.

Mr. COUGHLIN. It was stated last year that electronic filing would lead to reduced costs, which should be passed on to the general public. Can you provide a quantifiable estimate of those savings at this time?

Mr. PHILBIN. We don't have anything with us at the moment, but we could supply that for the record, if that would be satisfactory.

[The information follows:]

It is not possible to give a quantifiable estimate of savings from the utilization of the electronic tariff filing process at this time because of its limited utilization. Carriers expect to experience savings in the production, maintenance, and distribution of tariff data, through more effective control over the pricing of services, and through more efficient billing procedures, Shippers, as well, should experience savings in the maintenance of carrier tariff data and in the process of analyzing competing carrier cost data to determine the most economical way to move their goods.

U.S. MOTOR CARRIERS REGISTERED IN PANAMA

Mr. COUGHLIN. Recently, there have been cases of Panamanian insurance firms convincing U.S. truckers to register in Panama and thereby avoid U.S. state taxes and user fees. In a recent case, you referred the case to the State Department. Would you explain this issue to us? What is the ICC's jurisdiction in such cases?

Mr. PHILBIN. That's an interesting case in which a Panamanian attorney who claims to represent a small number of U.S. motor carriers advised the Commission that pursuant to something called the Convention on the Regulation of Inter-American Automotive Traffic, a 1943 treaty, and other international agreements his clients were not subject to the Interstate Commerce Act.

The Commission advised the attorney that the Interstate Commerce Act provided for no such exemption. Nevertheless, the attorney persisted in his contention that the 1943 treaty authorized his clients to conduct motor carrier operations on the U.S. highways without restriction.

Officials of several States observed U.S. carriers operating with Panamanian license plates and requested advice and assistance from the Commission. They were not flying any flags.

Commission staff met with the Department of Transportation and requested that the Department of State be consulted, since the controversy appeared to involve a matter of treaty interpretation. The Department of State agreed to review the matter and advised the Panamanian attorney that nothing in the 1943 convention exempts motor vehicles from another State—meaning State in the sense of country or nation—from such obligations as may arise under national and local laws for the payment of taxes or fees attendant on the use of its roads for commercial purposes or from such other obligations as may arise in respect of such activity.

In addition, the State Department noted that the Convention must be construed in light of the rule of international law that no claims to foreign nationality need be recognized absent sufficient and genuine links to the State where the nationality is claimed. This means that even assuming the Convention applied to motor carrier operations, United States carriers could not invoke its provisions.

The State Department requested the Department of Transportation to ensure that the United States' position on this matter is conveyed to appropriate State authorities.

UNIFORM MOTOR CARRIER REGULATIONS

Mr. COUGHLIN. These attorneys have fertile minds, don't they? Our colleague, Congressman Hastert of Illinois, is getting ready to introduce the Safe and Competitive Trucking Act of 1990, employing language that preempted State economic regulation of airlines. This bill would do the same for the trucking industry and provide for uniformity in taxation and registration among the States. Without seeing the legislation, have you any thoughts off the top of your head about this approach?

Mr. PHILBIN. I had seen what purported to be a draft of the legislation about a week ago, and assuming that that is, in fact, the legislation that's going to be introduced, it seemed to me that there were benefits to that particular legislation.

We have had in the past, and I'm sure Congressman DeLay will corroborate it, some problems with the disparity in the State regulation of motor carriers. Some States are very, very regulatory; other States are not so regulatory. Some of the States are exercising their proper police powers, requiring more than the Federal Government requires, much to the chagrin of the truckers who operate in or through those States.

It seems that some attempt to attain uniformity amongst the States would have valuable benefits to the motor carrier industry. I know that's in very general terms, but it seems to me that that legislation is a rather good idea.

INTERMODAL TRANSPORTATION

Mr. COUGHLIN. What recent actions has the ICC undertaken to promote the growth of intermodal transportation?

Mr. PHILBIN. We have attempted, within the boundaries set by the Interstate Commerce Act, to eliminate regulatory barriers to the efficient provision of intermodal service. Under 49 U.S.C.

10505, effective March 1981, we exempted from regulation rail movements of trailer-on-flatcars and container-on-flatcars.

This exemption has helped spur significant innovations in technology. For example, the double stacked cars and also innovations in marketing and equally significant service and price improvements, enabling this intermodal service to compete more effectively with motor carriers.

Intermodal TOFC and COFC has been the most dramatic growth area for railroads in the 1980s. And in the case called Ex Parte 230 (Sub-No. 7), which was decided November 27, 1989, we exempted the motor portion of TOFC and COFC service from regulation as well.

We have also approved intermodal mergers where permitted by the Act. For example, under Section 11321, and the Panama Canal Act of 1912, we approved the merger of CSX and American Commercial Barge Lines in 1984 and the merger of CSX and Sea-Land in 1987.

Our approval of mergers involving rail and motor carriers is restricted by 49 U.S.C. 13344(c). Congress, in Section 3403 of the Drug Act, permitted a more liberal interpretation of Section 13344(c) for those rail and motor merger applications brought before the Commission between July 1984 and September 1986.

This permitted our approval of the mergers of Union Pacific Corporation with Overnite Transportation Company and of Norfolk Southern with North American Van Lines. No significant applications for intermodal mergers have been brought before us in the past several years.

Mr. COUGHLIN. Please expand on your answer for the record.

[The information follows:]

In 1981, we instituted the first stage of our trailer on flatcar/container on flatcar (TOFC/COFC) exemption dealing with the rail portion of these intermodal rail-motor movements. This contributed greatly to an explosion in growth of this traffic and paved the way for new, more efficient types of services (Ex Parte 230 (Sub-No. 5)). Double stack movements and dedicated TOFC/COFC trains have raised the quality of service and accommodated the expanding volume. A second stage of the exemption, in 1987, dealt with the motor carrier portion of movements handled under joint rates (or agency arrangements) with the railroads (Ex Parte 230 (Sub-No. 6)). Finally, in late 1989, we exempted all truck portions of continuous intermodal movements even when not under joint rates. This will assist third party intermediaries to offer fully exempt intermodal services (Ex Parte 230 (Sub-No. 7)). Truckers and shippers will thus be able to use shipper's agents, rather than joint rates or railroad agents, to piece together TOFC/COFC movements. Although many factors have contributed to the growth of intermodal traffic, exemption of the rail stage was extremely important. The exemption of the truck leg of the movements may also be a significant innovation, though it is too early to fully assess its impact.

Another recent development in the area of intermodal transportation was our approval, in February of 1989, of the Trailer Train pooling agreement (Finance Docket 27590 (Sub-No. 1)), subject to a five-year term. The Trailer Train Co., dating back to the 1950's, is jointly owned by most of the large railroads and is the primary way the industry invests in and distributes intermodal flatcars for interline movements.

In 1987, when the agreement was coming up for renewal, a major carbuilder and the Justice Department filed in opposition, claiming that Trailer Train had restricted investment in intermodal flatcars. The record showed the contrary. Trailer Train actually facilitates individual railroads' participation in intermodal traffic, keeping costs down by standardizing design and parts and by instituting efficient distribution practices.

Nevertheless, certain practices that had developed—assignment and purchase of cars for allocation—were found not to justify approval (and the antitrust immunity that accompanies it) because they are similar to those that could be provided by other third party lessors in the open market. Disapproval of those specific practices is expected to open the way for more participation by those third parties and, hence, to encourage greater competition for intermodal movements.

ADEQUACY OF TRAVEL BUDGET

Mr. COUGHLIN. Is the current ICC travel budget adequate to enable the Chairman and the Commissioners to hold field hearings and to participate in important meetings? For example, have you held hearings in areas of intermodal activity regarding Europe in 1992 or around the Pacific rim?

Mr. PHILBIN. As I may have mentioned at the outset, the budget which is before you was completely in concrete before I arrived on the scene. With regard to travel funds, since we are now taking the position that more oral hearings are required in abandonment cases in the local area requiring greater use of the administrative law judges, what appears to be more than a possibility of having state-of-the-industry type meetings and perhaps factfinding boards, I have some concerns about the travel budget.

At the time it was submitted, it was before a different Commission with a different attitude, but I have some concerns that the travel budget from here on in may be a bit of a problem.

Mr. COUGHLIN. I take it you have not held hearings in the areas of intermodal activity regarding Europe in 1992?

Mr. PHILBIN. I don't believe we have, no.

CRIMINAL INVESTIGATIONS

Mr. COUGHLIN. The ICC is also responsible for investigating fraudulent activities such as kickbacks and bankruptcy fraud. What significant investigations have you recently completed, and do you see any trends emerging which are of concern?

Mr. GAILLARD. Mr. Coughlin, the Commission participated in several criminal investigations involving transportation issues which resulted in convictions under the fraud and tax evasion statutes. On September 18, 1987, Charles Nathan Ammerman, doing business as A&A Brokers, Inc. of Liberty, North Carolina, and Delbert J. Heyman, doing business as DJH, Inc. of Sophia, North Carolina, were found guilty of one count each of conspiring to violate the wire fraud statutes and 39 counts each of scheming to defraud various regulated motor carriers of their freight charges for transporting interstate shipments of freight. Some 500 motor carriers lost more than $800,000 in freight charges.

In an unrelated case, Charles Nathan Ammerman and Wayne Gilby, assistant traffic manager for Coronado Paint Company of Edgewater, Florida, on September 21, 1987, pleaded guilty to one count each of conspiring to violate the wire fraud statutes and one count each of scheming to defraud the Coronado Paint Company of its freight charges for the transportation of interstate freight. Ammerman converted the freight charges due Coronado to his own use and paid secret commissions to defendant Gilby to continue to have Coronado's vehicles transport shipments.

As a result of the Commission's investigation into illegal kickbacks, Howard B. Shore of Hopkinton, Massachusetts pled guilty to one count of subscribing a false income tax return. Shore, while employed as a traffic manager and purchasing agent of Teknor Apex Company received substantial amounts of money in the form of kickbacks from Southern Express Corporation, a certified contract carrier. This money, which was not reported by Shore on his income tax returns, was paid to influence Shore to tender Teknor Apex's interstate freight to Southern Express.

Mr. COUGHLIN. Thank you, Mr. Chairman. That completes the general questions.

FISCAL YEAR 1990 REPROGRAMMING

Mr. LEHMAN. We'll turn to justifications.

Along with your budget, you transmitted a fiscal year 1990 reprogramming request to cover pay cost increases. You are proposing to cut 12 staff years in order to stay within your fiscal year 1990 appropriation. How much must be saved because of the pay raise? And of that amount, how much do you plan to save from staff-year reductions?

Mr. PHILBIN. Mr. Chairman, I would refer that question to the Managing Director, Mr. Guthrie.

Mr. GUTHRIE. The cost of the pay raise, Mr. Chairman, is calculated at $799,000, and the 12 staff-year reduction we calculated at $588,000. So we're talking about a necessity to save $211,000 in non-personnel costs.

Mr. LEHMAN. Do you have a chance to save more money from non-personnel activities like funds for incentive awards, training, overtime, or travel?

Mr. GUTHRIE. We're squeezing just as much out of those particular object classes as I think we can. Let me expand on that just a little bit to tell you in general terms what we face in this area.

When we look at our object class numbers from page 105 of the budget, we're looking at spending $34 million of the $43.8 million, rounding up, on personnel compensation and benefits. We're also talking about spending $6.6 on rental payments and communications and utilities. Those amounts of monies are fairly rigid and are driven, really, by the personnel numbers.

You're talking about a total of $40.6 million of the $43.777 total on those categories alone. That only leaves a remaining $3.2 million in the other object classes to wring out additional savings. It's extremely difficult to do, and you're driven to the personnel area.

Mr. LEHMAN. You sound like the Defense Department.

Mr. GUTHRIE. Well, I want to emphasize this because this is important. A lot of other agencies, some of them our size, have grant monies, larger contract monies, and more discretionary areas of spending than this particular agency.

Mr. LEHMAN. Would this 12 staff-year reduction be accomplished entirely by attrition—how many of these slots are currently filled?

[The justification follows:]

The proposed reduction would be accomplished entirely by attrition. None of these positions are currently filled.

Mr. LEHMAN. Like last year, you propose to reduce staffing in virtually every major ICC office except the "commissioners and their offices". Why can't the commissioners share in the pain?

Mr. GUTHRIE. I'm not going to touch that one.

Mr. PHILBIN. Sir, I'll address that, if I may. When I first joined the ICC, I was rather surprised at the size of the Commissioners' staffs because in relationship to the Federal Maritime Commission, they have a rather large staff. I have been there now approximately four to five weeks, and the amount of work that has gone across my desk as a Commissioner has certainly proved to me that the Commissioners' staffs are not too large. They need all of the help that they can get to make these judicial decisions.

We will look at the numbers on the Commissioners' staffs in the future, if we can determine that efficiencies within the commission staff itself might reduce the workload on the Commissioners' offices. But at the moment, I think they really do fully utilize all of the people on their staffs and if we cut them, it would interfere with the work of the Commissioners.

Mr. LEHMAN. You may recall that last year this Committee approved a similar reprogramming, but we stated that in the future we wanted to see these savings spread out to non-personnel expenses and the commissioners' offices. You obviously have not done what we asked. Why not?

[The information follows:]

The majority of the FY 1990 reprogramming funding was taken from attrition for two reasons. First, the Commission's on-board staffing level was at 689 with anticipated non-critical retirements scheduled for the end of the first quarter and the second quarter. Second, the majority of the Commission decided to approach the reprogramming with the intention of allowing a gradual staffing decrease to bring the FY 1990 end-of-year employment level down to the OMB passback level to avoid RIFs or furloughs.

The majority of the Commission, in their deliberation of the FY 1990 and FY 1991 staffing issues, decided to defer any change to the Commissioners' staffing levels until an analysis of work flow changes in the Bureaus and Offices is finalized.

Mr. LEHMAN. Your letter mentioned that the proposed staffing reductions are necessary due "largely" to the pay raise. What other reasons necessitate these reductions?

[The information follows:]

The Bureau and Office FY 1990 reprogramming requests also reflect cost adjustments to other non-pay raise categories. These include changes in the Commission's share of health benefits, FERS-related benefits, travel, training, timesharing contract, other services, and equipment purchases.

Mr. LEHMAN. Please provide a detailed breakdown of these "other" costs for the record, similar to the data provided on page 1002 of last year's hearing record.

[The information follows:]

The following detailed breakdown represents the difference between the FY 1990 Conference Report distribution and the Reprogramming request:

[In thousands of dollars]

Effects of the 1990 pay raise	$799
Effects of Gramm-Rudman-Hollings reduction	484
Effects of staff-year reductions	−581
Reduction of "other costs"	−702
Increase in health benefit costs	155
Decrease in FERS-related benefits	−155
Decrease in severance cost estimates	−40
Decrease in program travel due to G-R-H sequester impact	−281
Increase in cost of transportation of things	3
Cost increase in RENT charges paid to GSA	9
Revision in communication and utilities estimates	−9

Cost reduction in printing contracts	−13
Reduction in timesharing cost due to recompetition	−136
Deferment of employee training needs	−79
Cost reduction in other services	−65
Inflationary cost increase for supplies	2
Deferment of all discretionary administrative equipment purchases due to G–R–H sequester impact	−93

STAFF REDUCTIONS AND ATTRITION

Mr. **Lehman**. Last year, your reprogramming requested the reduction of 16 positions in order to fund, among other things, training on word processors and computers and additional supplies. Usually, agencies tell us their staff are their most important asset. Here, you were reducing positions for supplies. Are you proposing such reallocations this year?

Mr. **Guthrie**. Not really. Again, I bring you back to my response earlier. We're wringing everything we can out of the object classes other than personnel. We are, however, driven to use the personnel-related object classes in order to get any material savings.

Mr. **Lehman**. What do you expect your attrition rate to be in fiscal year 1990 and what is the maximum number of staff years that could be reduced before a RIF would be required?

[The information follows:]

This agency is currently projecting an FY 1990 staff-year target of 670 (based upon staff-year usage as of 2/24/90). This is a 5.7 percent attrition (employee separations only) during the first 5 months of FY 1990 (13.5 percent annualized). If the present attrition rate continues, no RIF will be necessary to achieve the Commission's requested FY 1991 staffing level.

Mr. **Lehman**. Please update for the record data stating your attrition rates, as shown on pages 1003–1004 of last year's hearing record.

[The information follows:]

In FY 1987, employment dropped less than 1 percent (employee separations offset by employee accessions). In FY 1988 and FY 1989, employment dropped 3 percent and 1 percent, respectively. To date in fiscal year 1990, employment has dropped 4.8 percent. The Commission is currently projecting an FY 1990 net attrition rate of approximately 5 percent, with the rate declining somewhat in FY 1991.

EMPLOYMENT LEVELS

Mr. **Lehman**. How many employees do you currently have on board?

[The information follows:]

The on-board staffing level as of the pay period ending March 10 is 663, including 15 other than full-time permanent employees. Current annualized staff-year usage stands at 660.2.

Mr. **Lehman**. Please update for the record the onboard employment table found on page 1004 of last year's hearing record.

[The information follows:]

ON BOARD EMPLOYMENT DATA

	Full-time permanent positions	Other than full-time permanent positions	End of period total
Fiscal year 1986:			
1st quarter	787	41	828

ON BOARD EMPLOYMENT DATA—Continued

	Full-time permanent positions	Other than full-time permanent positions	End of period total
2d quarter	777	47	824
3d quarter	749	46	795
4th quarter	702	40	742
Fiscal year 1987:			
1st quarter	702	39	741
2d quarter	709	36	745
3d quarter	707	33	740
4th quarter	706	32	738
Fiscal year 1988:			
1st quarter	696	30	726
2d quarter	690	28	718
3d quarter	676	26	702
4th quarter	678	33	711
Fiscal year 1989:			
1st quarter	679	25	704
2d quarter	682	25	707
3d quarter	673	27	700
4th quarter	675	26	701
Fiscal year 1990:			
1st quarter	659	21	680
2d quarter	648	15	663
(As of March 10, 1990)			

PERSONNEL COMPENSATION AND BENEFITS

Mr. LEHMAN. Please also update the personnel compensation and benefits table found on page 1005 of last year's hearing record by adding a fiscal year 1991 column and dropping the fiscal year 1985 column.

[The information follows:]

PERSONNEL COMPENSATION AND BENEFITS

	Fiscal year—					
	1986	1987	1988	1989	1990	1991
Permanent positions	$30,183,000	$27,846,000	$27,679,000	$27,986,000	$29,217,000	$28,617,000
Terminal leave	643,000	212,000	155,000	103,000	102,000	102,000
Special appointments	482,000	462,000	424,000	456,000	400,000	304,000
Overtime	48,000	46,000	40,000	38,000	50,000	40,000
Night differential	4,000	5,000	5,000	2,000	1,000	1,000
Incentive awards	289,000	300,000	326,000	334,000	375,000	375,000
Total compensation	31,649,000	28,871,000	28,629,000	28,919,000	30,145,000	29,439,000
Staff-Year Level	806	732	712	708	701	645
Average compensation per staff-year	$39,267	$39,441	$40,209	$40,846	$43,003	$45,642
Total benefits	$3,850,000	$3,881,000	$3,915,000	$4,161,000	$4,303,000	$4,409,000

SPECIAL APPOINTMENTS

Mr. LEHMAN. Please update for the record the breakdown of personnel receiving "special appointments" shown on pages 1007–1010 of last year's hearing record.

[The information follows:]

The Commission defines "special appointments" as anything other than full-time permanent appointments.

Special Appointments
4/1/89 - 3/90

NAME	TITLE	GRADE	ORGANIZATION	CATEGORY
Schauer, Tiffany	Legal Intern	GS-11	Office of Proceedings	Part-time
Steckley, Linda	Operating Acct.	GM-13	OMD - B & F	Part-time
Dewland, John	Computer Specialist	GS-13	OMD - Systems	Temporary
Schwartz, Thomas	Mail Clerk	GS-4	Secretary	Part-time
Salazar, Maria	Mail & File Clerk	GS-5	Secretary	Part-time
Pearson, Janica	Mail Processing Equip. Op.	GS-4	Secretary	Part-time
Barber, Ellen	Scheduling Clerk (Data)	GS-6	Secretary	Full-time
Hunter, Jerome	Mail Processing Equip. Op.	GS-4	Secretary	Temporary
Santarmes, Zachery	Mail Processing Equip. Op.	GS-4	Secretary	Full-time
Hamlin, Joseph	Mail Processing Equip. Op.	GS-5	Secretary	Full-time
Green, Glenda	Mail & File Clerk (Data)	GS-4	Secretary	Temporary
Brooks, Carol	Attorney Adviser	GS-15	Ofc. of Public Assist.	Part-time
Kitay, E.	Trial Attorney (Trans)	GS-15	General Counsel's Ofc.	Part-time
Strasser, V.	Trial Attorney (Trans)	GS-15	General Counsel's Ofc.	Part-time
Westbrook, Daniel	Expert	$250 PD	Bureau of Accounts	Temp. Expert
Edwards, Daniel	Economist	GM-15	Bureau of Accounts	Temporary
Brill, Michael	Industry Economist	GS-12	OTA	Temporary
Gire, Thomas	Attorney Adviser (Trans.)	GM-15	Proceedings	Part-time
Shert, Elaine	Attorney Adviser (Trans.)	GM-15	Proceedings	Part-time
Udovic, Jane	Attorney Adviser (Trans.)	GS-15	Proceedings	Part-time
Middlebrook, Craig	Law Clerk	GS-13	Proceedings	Temporary
Niegowski, Margaret	Attorney Adviser (Trans.)	GS-11	Proceedings	Temporary
Lancia, T.	Law Clerk	GS-12	Proceedings	Temporary
Jones, Jerry	Secretary (Typing)	GS-7	OCCA-Headquarters	Temporary
Hohmn, Michele	Secretary (Typing)	GS-5	OCCA-Eastern	Part-time
Dwyer, Carol	Secretary (Typing)	GS-5	OCCA-Eastern	Part-time
Monaghan, Martin	Investigator	GS-12	OCCA-Eastern	Temporary
Minnick, Benjamin	Secretary (Typing)	GS-6	OCCA-Eastern	Temporary
Miller, Roger	Secretary (Typing)	GS-5	Western Region	Temporary
Sanders, Corey	Mail Clerk	GS-4	Secretary	Temporary
Henley, Brenda	Mail & File Clerk	GS-4	Bureau of Traffic	Temporary
McRoy, C.	Mail & File Clerk	GS-4	Bureau of Traffic	Temporary
Arrington, Charlene	Clerk-Typist	GW-4	OCCA-Headquarters	Temporary
Baker, John R.	Clerk	GS-5	OTA	Temporary
Ahlheim, Stephen P.	Clerk	GS-5	OTA	Temporary
Arrigoni Margaret I.	Clerk	GS-5	OTA	Temporary
Lee, Randolph M.	Attorney-Adviser	GM-15	Commissioner Andre'	Temporary
Fitzpatrick, Kevin W.	Staff Adviser	GM-15	Commissioner Andre'	Temporary
Voltman, Robert	Staff Adviser	GM-15	Commissioner Emmett	Temporary
Barling Carol A.	Confidential Assistant	GS-12	Chairman	Temporary
Rothenberg, Alan	Attorney-Advisor	GS-15	Public Assistant	Part-time

ONBOARD STAFF DATA

Mr. LEHMAN. Please provide for the record a breakdown of onboard staff by position level for fiscal years 1989, 1990, and 1991.

[The information follows:]

STAFFING BY GRADE LEVEL

	Fiscal year—		
	1989 actual	1990 estimate	1991 estimate
Executive Level III	1	1	1
Executive Level IV	4	4	4
Subtotal	5	5	5
ES-6	8	8	8
ES-5	6	6	6
ES-4	7	7	7
ES-3	4	4	4
Subtotal	25	25	25
GS/GM-16	3	3	3
GS/GM-15	92	86	83
GS/GM-14	83	80	77
GS/GM-13	73	70	68
GS-12	99	91	88
GS-11	54	52	50
GS-9	42	45	43
GS-8	21	21	20
GS-7	39	40	39
GS-6	48	45	43
GS-5	76	69	67
GS-4	34	29	28
GS-3	3	2	2
Subtotal	667	633	611
Ungraded	4	4	4
Total positions	701	667	645

STAFF YEARS AND BUDGET ESTIMATES

Mr. LEHMAN. Please provide for the record tabular data on staff years and budget estimates by bureau and office for both the OMB submission and the Congressional submission for fiscal year 1991, with columns showing differences between the two submissions.

[The information follows:]

INTERSTATE COMMERCE COMMISSION

STAFF-YEARS AND BUDGET ESTIMATES BY BUREAU AND OFFICE

[In thousands of dollars]

	FY 1991 OMB Estimates		FY 1991 Congressional Estimates		Differences	
	Total Staff-Years	Budget Estimates	Total Staff-Years	Budget Estimates	Total Staff-Years	Budget Estimates
Commissioners and their Offices	47	$3,864	44	$3,741	-3	-$123
Secretary	82	3,616	76	3,435	-6	-181
General Counsel	25	1,980	23	1,853	-2	-127
Proceedings	111	7,860	102	7,289	-9	-571
Hearings	5	429	5	428	0	-1
Public Assistance	14	1,132	13	1,069	-1	-63
Transportation Analysis	27	2,535	24	2,274	-3	-261
Accounts	60	4,733	55	4,376	-5	-357
Traffic	59	3,173	54	2,976	-5	-197
Compliance and Consumer Assistance	197	12,932	181	11,990	-16	-942
Managing Director	74	4,686	68	4,346	-6	-340
Commission Totals	701	$46,940	645	$43,777 *	-56	-$3,163

* FY 1991 Congressional estimates include funding for one-half of the January 1990 pay raise which was _not_ included in the OMB estimates.

OFFICIAL OVERSEAS TRAVEL

Mr. **Lehman**. Please also update for the record the listing of official overseas travel shown on page 1013 by adding data for fiscal years 1989 through 1991.

[The information follows:]

There was no official overseas travel in FY 1989, and none has taken place or is planned at this time in FY 1990 or FY 1991.

"OTHER SERVICES" DATA

Mr. **Lehman**. Please also update for the record the breakdown of the Commission's "other services" account, as shown on page 1026 of last year's hearing record, and include a narrative discussion of any significant decreases or increases to the fiscal year 1990 level.

[The information follows:]

[In thousands of dollars]

Other services	Fiscal year—				
	1987	1988	1989	1990	1991
Auto maintenance and parking	$0	$1	$1	$0	$1
Household goods storage	0	10	7	0	0
Investigations and other legal costs	8	124	30	10	10
Training	62	98	284	40	98
Computer equipment maintenance	217	205	52	52	52
Other maintenance	45	76	78	91	91
Building repairs and maintenance	268	287	286	275	271
Tenant alterations-expensed	47	73	57	1	25
Health services	53	59	75	81	75
Major contracts	442	155	236	277	348
Minor contracts	70	28	10	90	89
Miscellaneous services	8	11	6	4	9
Timesharing contracts	575	677	617	569	569
Communication network contracts	18	15	1	5	5
Software development	0	0	0	0	0
Data capturing contracts	6	6	7	6	5
Total	1,819	1,825	1,747	1,501	1,648

The FY 1991 estimate for training returns to a more normal level (FY 1988) after an FY 1990 G-R-H imposed reduction, since all current on-board staff have now received training on the use of the new personal computers purchased in FY 1988.

The tenant alterations estimate shows an increase over the FY 1990 level but is still lower than in previous years. The artificially low FY 1990 estimate reflects deferral of discretionary alterations resulting from the decrease in the Commission's office space based on fewer staff-years.

The increase in major contracts reflects the renegotiated cost of the Commission's Rail Waybill Sample and the restoration of pre-FY 1990 G-R-H contract funding for environmental contracts and rail monitoring studies.

OFFICE SPACE DATA

Mr. **Lehman**. Please update for the record the data on office space usage, per square foot, as shown on page 1027 of last year's hearing record.

[The information follows:]

COST PER SQUARE FOOT

	Fiscal year— 1989	1990	1991	Percent increase
Headquarters office space	$21.46	$25.55	$26.80	4.9
Field office space [1]	14.15	16.33	17.29	5.9

[1] Average.

Mr. Lehman. Please also update for the record the data on office space usage, as shown on pages 1027 and 1028 of last year's hearing record.

[The information follows:]

OFFICE SPACE

	Headquarters		Field	
	Square feet [1]	Cost per foot	Square feet	Average cost per foot
Fiscal year:				
1983	219,805	$8.99	113,470	$9.76
1984	201,560	10.25	80,240	10.68
1985	165,000	20.34	65,000	14.00
1986	144,000	20.34	45,900	14.00
1987	144,000	21.04	39,100	13.56
1988	118,460	21.04	38,019	13.56
1989	118,150	21.46	37,574	14.15
1990	117,810	25.55	36,767	16.33
1991	110,465	26.80	35,034	17.29

[1] Year end.

OFFICE SPACE PER EMPLOYEE

[In square feet]

	Headquarters	Field	Total
Fiscal year:			
1983	219	243	277
1984	230	240	231
1985	266	236	229
1986	210	191	205
1987	219	212	217
1988	165	201	172
1989	162	212	175
1990	162	210	175
1991	163	216	175

SUPPLIES AND MATERIALS VS. STAFF

Mr. Lehman. Your request for "supplies and materials" is unchanged from fiscal year 1990. However, you are requesting a large reduction in staff. Why isn't your supplies and materials budget reduced accordingly?

Mr. Guthrie. In fiscal year 1990, our spending for discretionary items has been severely curtailed because of the lateness of our appropriation and the initial threat of the 5.3 percent G-R-H sequestration. Our 1991 request restores our normal per capita funding level including anticipated inflation in the cost of supplies.

Mr. **Lehman**. In a budget request which reduces the staff by 44 staff years, you are requesting increases totalling $422,000 for travel, printing, and other services. According to last year's data, you could retain 10 of these positions if these expenses were held at the fiscal year 1990 level. From this perspective, it doesn't appear that you have budget constraints on staff, it appears that you have simply agreed to reduce your staff further and to use these funds for other purposes. Wouldn't additional staff be better than more supplies?

Mr. **Guthrie**. Yes, sir, and my answer is essentially the same. When we're dealing with discretionary funds, which are not personnel or rent or utilities, totalling out to be $3.2 million, you can only wring so much out of those discretionary object classes, and we're doing everything we can in those areas. You still want to train your people, you still have to travel in order to perform your function properly, and a certain percentage of that $3.2 million has got to be there.

Mr. **Lehman**. Do you want to expand on that for the record, please?

Mr. **Guthrie**. Yes, sir.

[The information follows:]

The FY 1991 requests for travel, printing, other services, and equipment represent levels essential for the Commission to fulfill its programmatic responsibilities.

FY 1991 funding increases in these categories are as follows:

Travel	$219,000
Printing	13,000
Other services	147,000
Furniture and equipment	43,000
	422,000

The travel and furniture and equipment requests represent restorations to normal levels following the FY 1990 Gramm-Rudman-Hollings sequester. The FY 1991 travel funding level is necessary to provide for field travel for compliance and enforcement, to oversee and review the audits by CPA's of major railroads, to conduct some transportation audits, and to conduct local and State factfinding and discovery hearings on Commission cases. Many of these activities had to be curtailed in FY 1990 to provide for the G-R-H sequester. Printing remains essentially at the FY 1990 level, subject to a small inflationary increase, since the Commission's printing requirements for case-related materials and general Commission printing will not change with the staff-year reduction. The FY 1991 other services increase is primarily to restore funding for environmental contracts anticipated for rail abandonment and construction cases, to restore funding deferred for a rail monitoring study, to provide for an inflationary increase for the Rail Waybill Sample contract, and to restore employee training to a normal level. The equipment request reflects the Commission's minimum requirements.

Mr. **Lehman**. For the record, explain how these 10 FTEs would be allocated if they were made available, and what impact the reallocation from the budget categories described above to personnel would have on the ICC's operations.

[The information follows:]

If the 10 additional staff-years were made available, the Commission would reallocate them to the Office of Compliance and Consumer Assistance for additional support in the compliance and enforcement areas and to the Office of Hearings for additional support in discovery and factfinding related to Commission cases. The increase in enforcement would allow a modest level enforcement program consistent with the 1980 regulatory reform measures by the Congress and promote a higher level of voluntary compliance by shippers and carriers. The increased Office of Hearings involvement would be in rail rate cases, abandonment applications, rail anti-trust matters, and declaratory order proceedings both at headquarters and at the local and State levels.

COMMUNICATIONS AND UTILITIES

Mr. **LEHMAN**. Break down your "communications and utilities" budget by local telephone, long distance telephone, mail, copier rental, and other expenses for fiscal years 1989 through 1991, and explain why you expect implementation of FTS 2000 to result in significant cost savings.

[The information follows:]

COMMUNICATIONS AND UTILITIES COST

[In thousands of dollars]

	Fiscal year—		
	1989	1990	1991
Local telephone service	$414	423	415
FTS intercity service	565	560	340
Mail	347	300	300
Courier service	12	12	12
Copier rentals	208	220	220
Miscellaneous machine rentals	10	3	3
Miscellaneous space rentals (local/State hearing rooms)	5	5	5
Total	1,561	1,523	1,295

GSA has provided an FTS 2000 estimate of $340,000 for fiscal year 1991 which amounts to a reduction of $220,000 from the previous two years. This cost savings is a result of economies of scale in buying services from existing competitive suppliers; a 10-year fixed price contract with competitive suppliers, subject only to scheduled inflationary increases; and the use of cheaper digital access lines versus the higher cost analog access lines.

FURNITURE AND EQUIPMENT PURCHASE PROPOSALS

Mr. **LEHMAN**. Please provide a listing of the furniture and equipment you propose to procure in fiscal year 1990, their associated costs, and provide the age of the obsolete computer equipment described on page 108 which you propose to replace.

[The information follows:]

A listing of the furniture and equipment items proposed for purchase in FY 1991 and their costs follows:

Item	*Cost*
Replacement of Commissioner's suite drapes	$6,400
Replacement of capitalized furniture	7,600
Replacement of general office chairs	3,000
Replacement of book shelves and file cabinets	1,000
Computer tables and chairs	3,000
Draperies (in general office space which are 10 to 12 years old)	2,000
Copiers	5,000
FAX machines	5,000
Telephone equipment (for stock)	3,000
Calculators (for stock)	1,000
Typewriters (for stock)	2,000
Simplex date stamps (for stock)	4,000
Upgrade of peripheral equipment associated with personal computers (printers, modems, and network boards)	5,000

The computer equipment for which the upgraded peripheral equipment is proposed was purchased in 1988. More recent technological advances in networking of the personal computers are now available to improve operational efficiency.

COMMISSIONERS AND THEIR OFFICES

Mr. LEHMAN. Please update us on the status of the Commissioners' seats and terms similar to what appears on page 1013 of last year's hearing record.

[The information follows:]

COMMISSIONERS AND EXPIRATION OF TERMS

Paul H. Lamboley, December 31, 1989.
J. J. Simmons, III, December 31, 1990.
Karen Borlaug Phillips, December 31, 1991.
Edward M. Emmett, December 31, 1992.
Edward J. Philbin, December 31, 1993.

Mr. LEHMAN. Your current budget request for total staff represents a 68-percent decrease since 1979. Within that amount, you are requesting 44 FTE positions for commissioners and their offices. How does that compare to 1979?

Mr. PHILBIN. That, Mr. Chairman, is a decrease from 1979. In fiscal year 1991, the staff-years requested for the Commissioners and Their Offices represent a 48 percent decrease from their fiscal year 1979 staffing level of 85.

OFFICE OF HUMAN RELATIONS

Mr. LEHMAN. You are requesting 4 positions for the Office of Human Relations. This office is responsible for EEO activities such as training and complaint resolution. How often do you train your employees in EEO matters, and how many existing headquarters personnel have received that training?

Mr. PHILBIN. During fiscal year 1989, the Office of Human Relations provided the following EEO training activities:

October 1988, they presented a seminar on "Planning Your Career in the Federal Government" to 20 female employees. The seminar was presented as part of the Federal Women's Program.

From May to July of 1989, they presented to 107 headquarters managers and supervisors in groups of six 18 two-hour EEO training sessions focusing on sexual harassment, age discrimination, and recent developments in EEO law.

In September 1989, they presented to 219 headquarters employees four two-hour training sessions which focused on sex discrimination and "Work Force 2000."

On April 17, 18, and 19 of this year, the Office of Human Relations will provide training on sexual harassment and sexual attitudes and stereotypes in the workplace to all Headquarters managers and supervisors.

And I have to tell you, Mr. Chairman, that I believe that the Human Relations Office is an essential function of the agency, or any agency for that matter.

Mr. LEHMAN. One could assume that with a declining overall number of staff, your human relations workload would also decrease. For the record, how many EEO complaints have you received over the past year, and how does that compare to previous years?

[The information follows:]

Due to an aggressive affirmative action program, the number of individuals receiving counseling and filing complaints has decreased over the years. In FY 1989, seven individuals received EEO counseling, and one formal EEO complaint (race and sex—female) was filed. In 1988, nine individuals received EEO counseling, and one formal EEO complaint (race) was filed. In 1987, 19 individuals received EEO counseling, and four formal EEO complaints were filed (two race—Black; one handicap (diabetic and epileptic); and one race and sex—Black and male).

OFFICE OF THE INSPECTOR GENERAL

Mr. LEHMAN. In talking about the IG, you are a relatively small agency. How many supporting staff does your IG have and how many reports have been issued in the past year, and do you really need your own IG? Can't the Department of Transportation IG handle your workload?

Mr. PHILBIN. Under Public Law 100-504, the Inspector General Act Amendments of 1988, there was specifically established the Office of Inspector General in the Interstate Commerce Commission. The Commission's Inspector General has no fully dedicated support staff, and during the period April 1989 through March 1990, the Inspector General completed four audits and three investigations and issued two semi-annual reports.

The position of IG within the Interstate Commerce Commission is statutorily required, and he has to be maintained as an independent Inspector General within the agency as a matter of law.

Mr. LEHMAN. Do you know why this legislation was passed to provide this? Not too many agencies your size have their own IG.

Mr. PHILBIN. No, sir. I've heard it described as the Inspector General's Protection Act, but I don't think that was really the motivation.

It grew out of the allegations of fraud, waste, and abuse and attempts to root it out. I think the Congress decided that the best way to do it was to have an independent Inspector General in every agency of any size and allow them to go to work to not only root out the fraud, waste, and abuse but also to help with management improvements, audit improvements, and comptroller functions with regard to the funds.

Mr. LEHMAN. Well, we can't change it anyhow because it's legislated in there.

Mr. PHILBIN. Yes, sir. We must have that. The only thing that we might be able to do is decide whether one person with support on an *ad hoc* basis from the staff is sufficient, or whether he should have full-time support people. I tend to think that the latter is probably desirable.

Mr. LEHMAN. Please expand on your answer for the record.

[The information follows:]

Section 8D of Public Law 100-504 requires the ICC, as an independent regulatory agency, to have its own Inspector General (IG). The IG is independent of any other Commission, Bureau or Office and reports directly and solely to the Chairman.

COMMISSIONERS' OFFICE STAFFING

Mr. LEHMAN. Please update for the record the data on the Commissioners' office staffing shown on pages 1014 and 1015 of last year's hearing record.

[The information follows:]

Name	Grade	Position
Office of Chairman Philbin:		
David M. Konschnik	ES-6	Chief of Staff.
Haddon J. Rhodes	ES-6	Chief of Policy.
Craig M. Keats [1]	GM-15	Attorney Advisor.
Carol A. Barling	GS-12	Confidential Assistant.
Office of Vice Chairman Phillips:		
Debra Ann Weiner	GM-15	Attorney Advisor.
Paul R. Joyce [1]	GM-15	Attorney Advisor.
Janie A. McCutchen	GS-11	Confidential Assistant.
Marie C. Anderson	GS-8	Secretary.
Office of Commissioner Lamboley:		
Dixie E. Horton	GM-15	Attorney Advisor.
Theodore K. Kalick	GM-15	Attorney Advisor.
Lucy A. Aloi	GS-11	Confidential Assistant.
Lorelei W. Ransome	GS-8	Secretary.
Office of Commissioner Simmons:		
Van A. Bosco	GM-15	Attorney Advisor.
Rickey L. Crawford	GM-15	Attorney Advisor.
Thomas T. Vining	GM-15	Attorney Advisor.
Hazel M. Lowe	GS-11	Confidential Assistant.
Rebecca W. Powell	GS-8	Secretary.
Office of Commissioner Emmett:		
William A. Mullins	GM-15	Attorney Advisor.
Robert A. Voltmann	GM-15	Staff Advisor.
Lenore M. Cummings	GS-8	Secretary.

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[1] Employee detailed from another office.

Mr. LEHMAN. Please also provide for the record a listing of projected fiscal year 1991 staffing similar to what appears on page 1015 of last year's hearing record.

[The information follows:]

FISCAL YEAR 1991

[Projected]

	Chairman	Vice Chairman	Commissioner	Commissioner	Commissioner
Chairman, EX-3	1				
Commissioner, E‸-4		1	1	1	1
Chief of staff, ES-6	1				
Chief of policy, ES-6					
Attorney/Advisor, GM-15	2	3	2	3	3
Staff Advisor, GM-15			1		
Confidential assistant GS-12	1				
Confidential assistant GS-11		1	1	1	1
Secretary, GS-9	1				
Secretary, GS-8	1	1	1	1	1
Total	7	6	6	6	6

SATELLITE OFFICE STAFFING

Mr. LEHMAN. Please also provide for the record an updated staffing table of the satellite offices similar to what appears on pages 1015 and 1016 of last year's hearing record.

[The information follows:]

Position, title, and grade	Fiscal year— End-of-year 1989	Projected 1990	Projected 1991
Office of Human Relations:			
Assistant to the Chairman (ES-4)	1	1	1
Equal Employment Manager (GM-14, GM-13)	2	2	2
Equal Employment Opportunity Specialist (GS-12)		1	
Equal Opportunity Assistant (GS-6)	1	1	1
Total	4	5	4
Office of the Inspector General:			
Chief (GM-15)	1	1	1
Assistant IG for Audits (GM-14)		1	1
Investigator (GS-11)			1
Total	1	2	2
Office of Government and Public Affairs:			
Director (ES-6)	1		
Congressional Liaison Representative (GS-14/15)	3		
Public Affairs Specialist (GM-14, GS-14)	1		
Paralegal Specialist (GS-11)	1		
Government Affairs Assistant (GS-8)	2		
Secretary (GS-7)	1		
Total	9		

The Office of Government and Public Affairs is now in the process of being restructured as follows:

Position, title, and grade	Fiscal year— End-of-year 1989	Projected 1990	Projected 1991
Office of External Affairs:			
Director (SES)		1	1
Associate Director (GM-15)		1	1
Confidential Assistant (GS-8)		1	1
Office of Public Affairs:			
Deputy Director (GS-14/15)		1	1
Confidential Assistant (GS-7/8)		1	1
Staff Assistant (GS-13/14)		1	2
Office of Congressional Affairs:			
Director (SES)		1	1
Confidential Assistant (GS-7/8)		1	1
Congressional Liaison Representative (GS-14)		2	2
Paralegal Specialist (GS-11/12)		1	1
Secretary (GS-7)		1	1
Total	0	12	13

COMMISSIONERS' TRAVEL AND OTHER EXPENSES

Mr. **Lehman**. Please also update for the record the data on "travel expenses" and "other expenses" shown on page 1016 of last year's hearing record by adding a column for fiscal year 1991 and dropping the column for fiscal year 1987.

[The information follows:]

COMMISSIONERS AND THEIR OFFICES

[In thousands of dollars]

Other expenses	Fiscal year—			
	1988	1989	1990	1991
Travel	19	27	29	29
Other expenses:				
Rental payments to GSA	476	488	581	583
Communications and utilities	34	38	43	44
Printing and reproduction	12	15	18	19
Other services	10	8	8	10
Supplies and materials	58	19	15	15
Furniture and equipment	214	0	0	0
Total	804	568	665	671

SEPARATE EXPRESSION OF COMMISSIONER SIMMONS

I believe the requested allocation for Commissioners' offices travel is grossly deficient. In recent years it has been more and more difficult for Commissioners and their staffs to get out into the field for "hands on" experience and site inspections which I think provide background which is invaluable in the decision-making process. The importance of first-hand knowledge of motor terminals, rail yards, and port facilities, etc., gained from these inspections cannot be over-emphasized. In addition, an increase in Commissioners' travel allocations would facilitate the holding of hearings in the field that could be much more widely attended than those held in Washington. Since I have been in office, I have seen numerous requests from Congressmen for Commissioners to hold public hearings in their districts on problems that impinge on their constituents. Without a substantial increase (to at least the approximately $12,000 per office allocation of 1982), these activities will continue to be virtually impossible.

OFFICE OF GOVERNMENT AND PUBLIC AFFAIRS

Mr. **Lehman**. How do you measure the workload of the Office of Government and Public Affairs?

Mr. **Philbin**. To begin with, Mr. Chairman, let me say that I intend to split that satellite office into two. One would be Congressional Affairs and the other would be External Affairs, and that office would include Public Affairs.

As it exists now, the Public Affairs function handles the telephone calls from the media, businesses, interest groups, trade associations, private individuals, labor union members, and law firms. My staff tells me that in one three-month period in 1988, approximately 1,000 calls were fielded with 30 percent of those from the media. The staff indicates that the number of calls has remained relatively constant since that time.

Public Affairs also issues press releases, 232 in calendar year 1989, and publicizes Commission hearings and oral argument sessions by making notice officially to the public by posting notices in the lobby of our building and by being available to aid reporters present.

As Chairman, I expect the number of hearings to increase as I have said previously this morning. In fact, since my tenure began, we've already had four hearings with a fifth scheduled for next week. Additional hearings will increase the Public Affairs Office's workload.

The annual report is compiled by this Office and transmitted to Congress. Over 2,500 copies a year are distributed. The Office is also responsible for coordinating meetings with interested visitors ranging from college classes to foreign dignitaries.

One way to monitor the workload of the Government Affairs function is to examine the amount of Congressional correspondence and requests for information received from Capitol Hill. My staff informs me that last fiscal year, approximately 580 Congressional letters were coordinated through this office. So far this fiscal year, approximately 333 Congressional letters have been received.

In addition, the Chairman's mail is handled by this Office. This included 277 letters last fiscal year and 121 so far this fiscal year, and all indications are that these figures will remain constant.

The staff handles all inquiries from Congressional offices and other Government agencies on matters concerning the Commission. The number of calls varies with the activities of the Commission.

Much of the Office's workload is ensuring that proper notification of Commission decisions and rulemakings is given to the interested parties in Congress, monitoring and informing the Commission of pertinent legislative action, preparing comments or testimony for hearings, and assisting Congressional staff by keeping them informed of Commission activities. The liaison responsibilities with Congress should remain constant with Commission activity, focused on motor carrier deregulation efforts at the moment, and efforts to revise the Staggers Act.

Currently, my staff informs me that they are monitoring approximately 50 legislative proposals and maintaining over 30 hearing files from the 101st Congress. Given the significant nature of many proceedings being considered by the Commission, I think it's rather unlikely that the flow of correspondence will diminish.

Mr. LEHMAN. You told me more than I wanted to know. But I'm still a little hazy on how you measure the workload. For the record, provide such workload indicators and compare that data among fiscal years 1989, 1990, and 1991.

[The information follows:]

Public Affairs handled approximately 4,000 telephone calls in FY 1989. This number has remained constant in FY 1990, and projections by the staff are for the same number in FY 1991.

The Office issued 239 press releases in FY 1989 and has issued 82 so far in FY 1990. Since 44 have been issued in the first quarter of calendar year 1990, the staff projects this number will increase in FY 1991 to approximately 250.

Public Affairs publicizes Commission hearings, oral argument sessions, and open voting conferences. There were 7 held in FY 1989 and so far in FY 1990, 9 have been held or scheduled. This trend of an increased number of meetings is expected to continue in FY 1991 and affects the workload accordingly. This is especially evident with the number of Sunshine Act meetings that are anticipated.

Eleven newspapers and 12 magazines are monitored daily by the staff of the Office of Government and Public Affairs for compilation of newsclips for distribution to the Commission.

Each fiscal year, the Office sponsors approximately 3 visits by whole college classes (about 25 students at a time) and their professor, and approximately 8 to 10 individual, foreign visitors. During the past two years, groups (of between 30-45 people per group) from foreign countries were also sponsored.

The annual report is compiled by the Office of Government and Public Affairs and transmitted to Congress and the public. Over 2,500 copies are distributed each year.

Government Affairs coordinates the responses to all congressional correspondence and requests from Capitol Hill. During fiscal year 1989, approximately 580 congressional letters were coordinated through the Office. Also, 277 letters to the Chairman were coordinated through the Office in FY 1989. So far in FY 1990, 333 congressional letters and 121 letters to the Chairman have been received. This indicates approximately the same amount of correspondence will be received in FY 1990, and this would be expected to remain constant in FY 1991.

In FY 1989, 92 large mailings were made to Capitol Hill pertaining to Commission decisions, activities, and rulemakings. Thus far in FY 1990, 44 such mailings have been sent. In FY 1991, the number of mailings should reflect the activities of the Commission.

In FY 1989, approximately 36 legislative measures were actively monitored by the staff of Government Affairs. So far in FY 1990, 50 legislative proposals are being monitored. The monitoring of these proposals includes all hearings, markups, passage in both Chambers, conference, and final passage of the bill. The Commission presented testimony at congressional hearings 7 times in FY 1989 and 4 times so far in FY 1990. Also, the staff of the Office maintains a number of other hearing files that deal with broader themes such as economic regulation and overall national transportation issues (14 in FY 1989 and 9 so far in FY 1990). The files on all confirmation hearings are maintained in this Office as well (2 in FY 1990). While it is difficult to measure, FY 1991 workload should remain constant with these figures.

OFFICE OF THE SECRETARY TRAVEL COSTS

Mr. LEHMAN. Your justification describes travel costs of the Office of the Secretary for the purpose of training, attending meetings, and for emergency preparedness. Are these travel costs really needed?

Mr. PHILBIN. The Office of the Secretary requested $1,000 for travel funds to be used for local travel for training purposes and to attend meetings with other agencies. These funds will also be used for travel related to the Commission's emergency preparedness activities.

Relatively, the sum is small and I believe that the funds are required.

OFFICE OF THE SECRETARY STAFF REDUCTION

Mr. LEHMAN. On page 35, your projected workload for fiscal year 1991 remains stable in most cases. However, you are requesting a reduction of five staff years. How is it that five less people will be able to handle the same workload? Will we see increased backlogs or delays as a result?

[The information follows:]

The Office of the Secretary anticipates handling the workload projected for FY 1991 with a reduction of 5 staff-years with the following actions:

1. We are acquiring a new microfilm camera to replace antiquated cameras. This new equipment is faster and more efficient (with time-saving features) than the present equipment.
2. Consolidation of some functions in the Commission Service Section and Public Records Section.
3. There are at least 2 eligible staff members who have expressed interest in retiring, and their functions will be reassigned to other personnel.

While backlogs will develop periodically, the use of temporary details from other units with lighter workloads at the time will be utilized. This method of handling these types of backlogs has worked well in the past.

OFFICE OF THE GENERAL COUNSEL

Mr. **Lehman**. On page 39 for the Office of the General Counsel, you state that "the number of litigations on motor rate cases is expected to decrease in fiscal year 1990 as the issues involving negotiated rate claims in undercharge cases are resolved in various circuit courts." How accurately can you predict the scheduled completion of circuit court cases, including appellate court review, across the country?

Mr. **Philbin**. It is very difficult to predict what the vagaries of litigation may bring to us, but the General Counsel believes at the moment that he is able to handle the expected workload, as best he can determine it, with the staff that he will have.

Mr. **Lehman**. Do you think automation will bring on a staff reduction in the General Counsel's office in the out years?

Mr. **Philbin**. Basically stated, Mr. Chairman, we think the answer is yes. The present staff component of the seven clerical support personnel is in large part a reflection of the historic production of legal documents, memoranda, correspondence, and records by secretarial employees from handwritten or typewritten drafts from lawyers. As the lawyers have become more proficient with the use of their computers to produce final, or virtually final, products, that level of clerical support is becoming unnecessary. We expect normal attrition in the clerical staff to provide a means for the reduction.

Mr. **Lehman**. For the record, would you explain how this is going to work? How this will take place?

Mr. **Philbin**. Yes, sir, I will.

[The information follows:]

The staff-year reduction proposed is to go from 25 in FY 1989 to 24 in FY 1990 and to 23 in FY 1991. The Office has already lost one clerical employee in FY 1990 who will not be replaced.

GENERAL COUNSEL WORKLOAD DATA

Mr. **Lehman**. For the record, please compare the President's budget and actual workload indicators for the Office of General Counsel, as shown on page 40, for fiscal years 1988 and 1989.

[The information follows:]

WORKLOAD SUMMARY

	Fiscal year 1988		Fiscal year 1989	
	President's budget	Actual	President's budget	Actual
Motor workload:				
Opinions:				
Rulemakings	10	6	20	6
Rate Cases	20	23	35	29
Licensing	10	39	23	40
Finance Cases	4	11	4	5
Litigation:				
Rulemakings	2	3	1	5
Rate Cases	7	12	6	58
Licensing Cases	10	14	2	47
Finance Cases	0	4	0	10
Legislative assistance [1]		13	13	17

WORKLOAD SUMMARY—Continued

	Fiscal year 1988		Fiscal year 1989	
	President's budget	Actual	President's budget	Actual
Rail workload:				
Opinions:				
Rulemakings	30	33	40	31
Rate Cases	40	49	60	50
Licensing Cases	2	7	12	2
Finance Cases	40	147	70	139
Litigation:				
Rulemakings	10	3	19	27
Rate Cases	12	10	8	46
Licensing Cases	0	1	8	5
Finance Cases	30	46	28	140
Legislative assistance [1]		44	44	41
General management and administrative workload (opinions)	104	89	50	42

[1] Includes legal analyses of legislation and testimony, legal issues in legislative correspondence, and briefings on legal aspects of legislative subject matters. Legislative Assistance was under Miscellaneous workload in FY 1988 President's Budget.

The difference in the figures is the result of switching from simply counting cases and requests received to counting actual work items such as briefs, motions, etc. The new method (only recently feasible because of computerization of our case tracking system) is a far more accurate gauge of office workload and its distribution among case categories. The former method of counting inputs (new cases filed) as opposed to outputs (briefs, motions, etc.) tended to overstate some workloads (such as when multiple identical case filings are received requiring a single brief to respond to all) and understate other workloads (such as when a series of briefs, pleadings, and motions must be drafted in a single case).

The numerical results of this one-time change in methodology should not be viewed as indicating an increase in workload. The change makes no difference in the opinion area, as comparison of the numbers shows, since each request results in an opinion. However, in the litigation area the raw numbers change considerably—a total of 93 motor and rail cases filed in FY 1988 and a total of 338 motor and rail litigation work items for FY 1989. But, in fact, our staffing requirements have not increased.

On the other hand, had we retained the former measurement, our workload would appear to be rising, which is not the case. There were 116 cases filed in FY 1989. If that number had been compared with the 93 cases for FY 1988, the conclusion would seem to be that the FY 1989 workload went up considerably. It actually did not, because the FY 1989 case filings include various duplicative filings (such as 16 identical reviews of Ex Parte 290 (Sub-No. 4)) which are handled as a single case. Plainly, a switch to counting actual work items, such as briefs, motions, oral arguments, etc., instead of cases filed, presents a more accurate picture of the Office of the General Counsel's workload.

OFFICE OF PROCEEDINGS

Mr. LEHMAN. Your justification states that "functional review continues to be important in improving procedures to increase staff efficiency." What exactly does this mean?

[The information follows:]

This statement reflects our continuing review of how various types of cases are handled and staff tasks are performed and whether the function can be performed more efficiently in some other manner. For example, we constantly review the docket to determine whether certain types of cases are being filed at a level that warrants different (*e.g.*, simplified) procedures. Such review has led to Commission adoption of various class exemptions or changed procedures that address an issue generically. It has also led to development of standardized decisions in certain types of cases, thus increasing productivity.

Review of staff tasks is similar to a desk audit. If a vacancy occurs in a particular job, we study whether the function could have performed efficiently by others. In this manner, we have reallocated certain work and now handle it with fewer staff.

Similarly, the new OP-1 application form, adopted after an extensive review of the current processing system, uses a check-the-box format and will simplify and shorten staff work.

MOTOR CARRIER PROCEEDINGS

Mr. LEHMAN. You state that "new strategies for handling the unopposed docket [for motor cases] more efficiently have allowed us to handle an increased workload without additional staff". What are these new strategies? Does this mean that if no one complains, the application is not thoroughly reviewed?

Mr. PHILBIN. Mrs. Mackall?

Mrs. MACKALL. Thank you, Mr. Chairman. One strategy was shifting the safety fitness analysis from a post-publication to a prepublication function. Under the Commission's safety policy adopted in December of 1988, the safety status of a carrier is now screened prior to publishing a tentative grant of authority. Those carriers with less than satisfactory safety ratings get rejection letters.

Prior to this change, resources in the Office of Proceedings and the Office of Compliance and Consumer Assistance were devoted to handling safety matters in application proceedings. Formal proceedings were held, and a separate decision was issued for each carrier with a less than satisfactory safety rating. In other words, instead of holding a proceeding, we now send a form letter explaining our policy.

Also, and more recently, the Commission developed its new simplified application form. That form uses a check-the-box format instead of a narrative response, and we expect that the new form will save a great deal of time by eliminating ambiguities that raised time-consuming questions. The check-the-box answers can be read quickly and should greatly simplify our handling of applications from receipt to publication.

Mr. LEHMAN. You state that "shifting safety issues to pre-publication has contributed to our ability to absorb additional work without straining our existing resources." What does this mean—has your safety audit and investigative workload been stretched out or lessened in any way?

[The information follows:]

This means that a carrier's safety status is screened prior to publishing a tentative grant of authority in the ICC register. The carrier's safety rating is obtained by a direct computer hook-up with DOT. Freight carriers with unsatisfactory safety ratings, passenger carriers with conditional ratings, and hazardous material haulers with conditional ratings receive rejection letters describing the measures they need to take to have their applications accepted for publication. Those carriers with satisfactory safety ratings have their applications published and receive an effective notice and compliance instructions under an automated system.

Under prior practice, safety matters were handled after a tentative grant of authority was published. Our Office of Compliance and Consumer Assistance would supply the Commission with the carrier's safety rating and be placed in the proceeding to develop the safety record. Attorneys in the Motor Section of the Office of Proceedings would draft decisions for the Commission concerning each carrier with a less-than-satisfactory safety rating.

The Commission's safety work has not been either stretched out or lessened. The work is now handled faster and more efficiently. Instead of holding a proceeding and involving lawyers from OCCA and Proceedings, we now send a form letter prepared by a paralegal explaining our safety policy.

OFFICE OF PROCEEDINGS TRAVEL

Mr. **Lehman**. Travel costs for this office are up almost 70 percent though the number of staff is being decreased. Why do you need a higher travel budget with less staff?

Mr. **Philbin**. Mr. Chairman, the Office of Proceedings originally requested $6,000 for travel in fiscal year 1990. This amount was reduced to $3,000 as part of the Commission's cutback to meet the Gramm-Rudman-Hollings target. Therefore, the actual real difference from our fiscal year 1990 Congressional request to the fiscal year 1991 request is a reduction of $1,000.

OFFICE OF PUBLIC ASSISTANCE

Mr. **Lehman**. You have staff in four separate offices—Government and Public Affairs, Public Assistance, Compliance and Consumer Assistance, and Transportation Analysis—to handle external relations with outside groups and the public. Especially given the ICC's emphasis on staff efficiency, why is it necessary to have four separate offices engaged in the same type of activities? You seem to be dividing up rather than consolidating.

Mr. **Philbin**. Yes, sir. It's true that the external affairs functions at the ICC are currently splintered, and I'm moving to alleviate that problem by consolidating the primary external affairs activities in one office, as I have already mentioned. I'm in the process of creating an Office of External Affairs which will have primary responsibility for establishment and implementation of public affairs, external affairs, and intergovernmental affairs policies for the Commission.

In creating this office, I'm separating the Office of Government and Public Affairs and establishing an Office of External Affairs and an Office of Congressional Affairs.

The External Affairs Office will have responsibility for establishing and promulgating public information policies of the Commission and will serve as the principal point of contact and liaison between the Office of the Chairman and the ICC with the media, as well as with Federal, State, and local government officials on intergovernmental affairs issues as well as with constituent groups and industry representatives. The Director of External Affairs will report directly to me.

I might add that by creating the Office of Congressional Affairs, I plan to focus more attention on the ICC's relationship with the Congress and want to give more personal attention to Congressional affairs. The Director of Congressional Affairs will report directly to the Chairman.

I am also in the process of looking closely at the operations of the Office of Public Assistance and the Office of Compliance and Consumer Affairs and may be consolidating some of those functions. However, I have no plans at this time for the Office of External Affairs to address consumer inquiries and concerns.

Mr. **Lehman**. Are you moving the staff itself to this new office as a result of these changes?

Mr. **Philbin**. That is probably the way it is going to work out in the end.

MOTOR CARRIER WORKLOAD

Mr. LEHMAN. Your workload indicators in the motor area show significant decreases for fiscal year 1991. Why is this, and are these estimates based more on programmatic needs or just the amount of staff available?

Mr. PHILBIN. Well, sir, when the ICC's new motor carrier application procedures become effective this spring, we anticipate an increase in the motor carrier workload. Once the industry familiarizes itself with the simplified procedures, however, the volume of such requests should taper off and ultimately reflect a decrease over the volume handled in fiscal year 1989 and projected for fiscal year 1990.

We expect that there will be no need for continued distribution of the series of motor carrier application guide books currently maintained by the Office of Public Assistance. This, too, will lessen the motor carrier workload and, in general, we feel that simplifications and efficiencies will probably lead to that result.

Mr. LEHMAN. Has the Greyhound bus strike affected your staff requirements for public assistance in the intercity bus area?

Mr. PHILBIN. Unlike the recent increased costs of diesel fuel and the foreign carrier certificate of registration crises, the current strike by Greyhound drivers has had very little effect on OPA's daily workload. The reason is that most motor carrier transportation consumers are instructed to lodge their complaints directly with ICC's Office of Compliance and Consumer Assistance, which is where most of the work would be performed, in that particular area.

OFFICE OF TRANSPORTATION ANALYSIS CONTRACTS

Mr. LEHMAN. Please update for the record the breakdown of contract costs for this office, as shown on page 1020 of last year's hearing record, by adding a column for fiscal year 1991 and dropping the fiscal year 1987 column.

[The information follows:]

OFFICE OF TRANSPORTATION ANALYSIS CONTRACT COSTS

	Fiscal year—			
	1988 [1]	1989 [1]	1990 [2]	1991 [2]
Rail waybill sample	$75,000	$148,978	$157,000	$165,000
Rail monitoring				40,000
Supplemental environmental expertise	5,100		30,000	50,000
Monitoring of surcharges		8,975	10,000	10,000
Total	80,100	157,953	197,000	265,000

[1] Actual.

[2] Projected.

Mr. LEHMAN. Over the past four fiscal years, you have averaged $178,000 for contract costs. The fiscal year 1991 budget requests almost 50 percent more or $265,000. Why is such an increase needed?

[The information follows:]

Due to the nature of some of these contracts and the special requirements of some Commission cases, the same amount of funds is not expended each year. In FY 1987, the costs were $40,000 over the average for the four fiscal years 1987–1990, but in FY 1988 they were $98,000 below the average. The requirements of some projects depend on the types of cases filed during a year and the technical knowledge and skills necessary for analyses (i.e., special environment analyses and studies, for which the Commission does not have staff expertise). A $20,000 increase in FY 1991 over FY 1990 is requested because a number of rail construction applications will require supplemental environmental expertise.

In FY 1990, $40,000 for the Rail Monitoring Study was deferred due to G-R-H sequestration. These funds are restored in our FY 1991 request. Also, the contract costs for the Rail Waybill Sample increased when the new contract was awarded in January 1989 for the 5-year period of 1989–1993.

BUREAU OF ACCOUNTS TRAVEL

Mr. **Lehman**. For fiscal year 1991, you are requesting a 50 percent increase in travel costs for this office—from $42,000 to $63,000. Why do you need such an increase?

[The information follows:]

The Bureau of Accounts had originally requested a higher travel allotment for fiscal year 1990. The $42,000 request represents the reduction imposed by the FY 1990 Gramm-Rudman-Hollings sequester. The $63,000 requested for travel in fiscal year 1991 provides for a return to the pre-FY 1990 level. Bureau travel is essentially for on-site audits of the 16 Class I railroads. The increase will allow for resumption of the full Class I railroad audit program plus other essential travel.

Mr. **Lehman**. Last year, you had $70,000 for travel in fiscal year 1990. Your current estimate is $42,000 in the Bureau of Accounts, which is considerably less than you estimated. Are these figures on target?

Mr. **Philbin**. Yes, sir. The Bureau of Accounts had originally requested a higher allotment for travel. This amount was reduced to $42,000 as part of the Commission's cutbacks to satisfy the Gramm-Rudman-Hollings sequester. The Bureau travel is primarily for on-site audits of each Class 1 railroad. The full audit program consists of visits to finalize audit procedures, to review work papers prepared by the carriers' independent accountants, and to conduct audits of transactions with affiliated companies.

In addition to travel for audits, other travel is taken to assist carriers in the preparation of depreciation studies, to participate in meetings with industry on accounting and related matters, and for special audit services and special audit reviews.

The lower spending level would necessitate a less than full audit program and virtual elimination of all other travel for that particular Bureau, so it is a problem.

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

Mr. **Lehman**. Your budget requests assumes a decrease in compliance surveys in both the motor and rail areas. Are these reductions driven by staff reductions or by improvements in compliance?

Mr. **Philbin**. OCCA's field work is divided into discretionary and non-discretionary functions. Sufficient resources must be available to handle the uncontrollable incoming workload such as complaints and applications for short-term operating authority. At this time, staff reductions in these non-discretionary areas would cause backlogs or work that simply would not be accomplished.

Compliance surveys, while very important as part of the Commission's oversight program, is a discretionary activity. And in times of staff reductions, it is this type of function that must be decreased to compensate for the lower staffing levels.

The reduction of compliance surveys projected in the Commission's proposed fiscal year 1991 budget results from the fact that OCCA staffing level would be reduced from 193 in fiscal year 1990 to 181 in fiscal year 1991.

Mr. Gaillard, would you like to add anything to that?

Mr. **Gaillard**. The only thing I can add to that is that our compliance survey workload reductions reflect the reality of staffing reductions between, I would say, the last two fiscal years, from our 210 level down to where we are today. The Office of Compliance and Consumer Assistance's production has remained relatively constant even though we've had a pretty good decrease in staffing levels. It's come home to roost now, and we're at a point where production has to be reflective of staff.

Mr. **Lehman**. You're telling me you need more staff. It sounds like you need more staff.

Mr. **Gaillard**. I'm simply saying that the work to be done with the staffing level is now more reflective than it has been in the past, sir.

Mr. **Lehman**. OMB reduced your staff proposal for this office by 16 staff years—from 197 to 181. For the record, please provide a table showing fiscal year 1991 workload summary data assumed in the OMB budget submission, the Congressional budget submission and the differences. Also, provide a discussion of the impact on your accomplishments for this office from such a reduction.

[The information follows:]

Workload summary	OMB budget submission	Congressional budget submission	Difference
Motor:			
Emergency and temporary authority applications	7,000	7,250	+250
Inquiries	117,000	127,650	+10,650
Fitness reviews	12,900	12,900	0
Complaints	10,200	9,900	−300
Insurance assignments	19,800	18,600	−1,200
Compliance surveys	570	495	−75
Special projects	31	26	−5
Rate bureau monitoring	52	52	−9
Preliminary investigations	1,250	1,120	−130
Final investigations	490	442	−48
Litigation	1,900	1,700	−200
Road checks	560	400	−160
Interpretations	180	220	+40
Rulemakings/proceedings	33,000	40,000	+7,000
License revocation order	9	9	0
Rail:			
Inquiries	2,000	1,000	−1,000
Complaints	100	100	0
Compliance surveys	30	15	−15
Special projects	4	4	0
Rate bureau monitoring	8	8	0
Preliminary investigations	10	10	0
Final investigations	10	8	−2
Litigation	8	8	0
Interpretations	8	8	0
Rulemakings/proceedings	1	1	0

The figures displayed above show that based on an FY 1989 end-of-year review, OCCA projected higher workloads for three of the four nondiscretionary work functions than were originally projected for FY 1991. Non-discretionary functions are the uncontrollable incoming workload from carriers and the public and include such items as emergency temporary authority applications, inquiries, complaints, and revocations.

At the same time the non-discretionary workload increases were added, the discretionary work functions were adjusted to accommodate the proposed staff-year decrease. The above display shows the reductions were taken principally in compliance surveys, preliminary and final investigations, and litigation cases. The impact of these reductions is that the salutary effect of promoting compliance through onsite surveys at carrier location may be less effective. Additionally, some noncompliance that preferably would be more fully investigated and targeted for court action may have to be concluded through administrative handling.

Mr. **LEHMAN**. Now that you're cutting back on your compliance surveys, wouldn't it be natural to expect an increase in non-compliance?

Mr. **PHILBIN**. Human nature being what it is, Mr. Chairman, I think the answer is yes.

Mr. **LEHMAN**. Ten of the 16 staff-year reductions are in the area of motor freight. Can we really afford to cut back so much in this area?

Mr. **PHILBIN**. We have a similar response to that, Mr. Chairman. In addition to a projected decrease in the number of compliance surveys in fiscal year 1991 from the higher accomplishments of fiscal year 1990 reductions are also expected in preliminary and final investigations in fiscal year 1991.

All of these functions are discretionary and notwithstanding our preference for a more concentrated freight monitoring program, the reality of reduced resources results in lower production levels. In the final analysis, the cut in staff years for the motor freight activities means that the program will be pursued with 181 staff-years rather than the fiscal year 1990 allocation of 197. In short, we will do what we can do.

Mr. **LEHMAN**. Please update for the record the data on OCCA "other expenses" shown on page 1024 of last year's hearing record.

[The information follows:]

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

[In thousands of dollars]

Other expenses	Fiscal year—			
	1988	1989	1990	1991
Transportation of things	$40	$20	$15	$3
Rental payments to GSA	1,055	1,084	1,282	1,314
Communications and utilities	466	464	445	377
Printing and reproduction	97	110	118	122
Other services	529	487	389	413
Supplies and materials	150	126	122	122
Furniture and equipment	345	107	2	15
Tort claims	0	28	0	0
Total	2,682	2,426	2,373	2,366

Mr. **LEHMAN**. Please also update for the record the data on OCCA regional travel found on page 1024 of last year's hearing record.

[The information follows:]

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE REGIONAL TRAVEL

Region	Fiscal year—			
	1988	1989	1990	1991
Eastern:				
Travel dollars	$270,000	$240,000	$220,000	$240,000
Staff years	73	72	71	64
Travel per staff year	$3,699	$3,333	$3,099	$3,750
Central:				
Travel dollars	$185,000	$160,000	$162,000	$178,000
Staff years	54	51	50	48
Travel per staff year	$3,426	$3,137	$3,240	$3,708
Western:				
Travel dollars	$152,000	$150,000	$118,000	$140,000
Staff years	35	36	33	32
Travel per staff year	$4,343	$4,167	$3,576	$4,375
Totals:				
Travel dollars	$607,000	$550,000	$500,000	$558,000
Staff years	162	159	154	144
Travel per staff year	$3,747	$3,459	$3,247	$3,875

OCCA FIELD OFFICE CONSOLIDATION

Mr. LEHMAN. Last year, we talked about your ongoing review of possible OCCA field office consolidation. ICC was hoping to make a decision sometime in the spring of 1989. What was decided?

Mr. PHILBIN. No decision was made, Mr. Chairman, that is the answer to your question. At the present time, the ICC has 22 field offices, 3 of which are designated as regional offices. There are no plans to close any of the offices in the near term. As Mr. Gaillard said, no decision was made last spring.

At some point in the future, an internal review of the overall organization of the Commission may be appropriate. I can tell you my opinion is that it will happen. The field offices would be included in that review to determine if the present locations best serve the public need, as well as the number of offices needed for that purpose.

That will be part of the ongoing review that I and the other Commissioners are undertaking at the moment.

OFFICE OF THE MANAGING DIRECTOR

Mr. LEHMAN. Explain in general the building upgrade activities planned for fiscal year 1991, and please expand with a detailed answer for the record, including a funding profile and schedule for future years.

[The information follows:]

Planned building upgrade activities for FY 1991 and future years are as follows:

1. $20,000 contract to provide a second exit from the library mezzanine for emergency exit to be completed in October 1990.
2. $5,929,000 Elevator Improvements Project for all passenger elevators to provide for cab replacement, safety and handicapped upgrades, is ongoing and scheduled for completion in November 1991.
3. $35,000,000 contract for renovation of the ICC Building. Design 1993. Construction 1995-1997.

4. $139,370 contract to provide for comprehensive Bird Proofing Program will be planned for FY 1991.

All building upgrade activities are funded by GSA through our RENT payments. While the Commission does not manage the building and schedule and fund the repairs, it works closely with GSA to identify and schedule necessary major renovations and repairs.

MANAGING DIRECTOR CONTRACTS

Mr. **Lehman**. Please update for the record the managing director contract breakdown shown on page 1025 of last year's hearing record.

[The information follows:]

MANAGING DIRECTOR CONTRACTS

[In thousands of dollars]

	Fiscal year—		
	1989	1990	1991
Timesharing	$617	$569	$569
Communication network	1	5	5
Data capture	7	6	5
Computer equipment maintenance	52	52	52
Health services	75	81	75
EPA payroll/personnel timesharing system support	0	85	79
Various small services	10	90	89
Total	762	888	874

Mr. **Lehman**. Under the Office of Managing Director, virtually all workload indicators show no change between fiscal years 1990 and 1991. However, you are requesting a reduction of four staff years. How will less staff perform the same amount of work? By working faster, using overtime, or whatever?

Mr. **Guthrie**. We're going to work smarter and more efficiently, and yes, there is some dividend as the result of the computerization that we've done in the last couple of years.

JEFFERSON LINES PROCEEDING

Mr. **Lehman**. That concludes the justifications, except I have some additional questions for the record from Mr. Sabo.

Mr. **Sabo**. I am interested in the status of two filings before the Commission: Docket #MC-F-19206. Both of these dockets were filed three months ago by Jefferson Lines, a Minnesota bus carrier and constituent of mine, and are still pending. My office contacted your office in February and was informed that a decision on this would be made soon. Is this information correct and if so when do you expect a decision?

[The information follows:]

The information provided to you is correct. The final staff analysis of this proceeding has been concluded.

At an open conference on April 17, 1990, the Commission voted to deny the relief sought by Jefferson Lines, Inc. The Commission recognized that destructive competitive practices are actionable but found in the circumstances of the case presented that the evidence did not support Jefferson Lines' allegations of anti-competitive behavior by Greyhound. Chairman Philbin reiterated his intent to continue monitoring the effects of the Greyhound/Trailways transaction. A written decision implementing the Commission's vote will be issued as expeditiously as possible.

Mr. SABO. Jefferson is currently competing with a sister company of Greyhound between Minneapolis, Des Moines, and Kansas City. Jefferson is in Chapter 11 reorganization and very vulnerable to this new operation. Jefferson serves over 100 small towns which Greyhound's sister company is not serving. I am concerned that bus service may be lost to these small towns. Is the ICC also concerned about these small communities and, if so, what is it doing to protect them from losing the only bus service they have?

[The information follows:]

Jefferson's allegations concerning Greyhound's competitive service is the subject of a proceeding before the Commission. Therefore, the Commission cannot comment on the merits of this particular case. However, service to small communities is one of the factors contained in the national transportation policy of 49 U.S.C. 10101(a)(2)(E). Under that provision, the Commission is directed to promote competitive and efficient transportation services in order to provide and maintain service to small communities. The Commission's review will include this issue.

Mr. SABO. Jefferson states that the new operation by Greyhound's sister company is unlawful because Greyhound and its sister company have never consummated the purchase of the operation rights the sister company is using. Is this correct? In a letter to my colleague, Congressman James Oberstar, former Chairman Gradison informed him that the purchase was consummated. Was Chairman Gradison's statement correct on this issue and if the case was still pending was it appropriate?

[The information follows:]

The Commission has a statement from Greyhound indicating that the purchase was consummated. Former Chairman Gradison's statement was based on Greyhound's statement and was a matter of public record. The response to Congressman Oberstar was based on the facts as they appeared at that time. Jefferson Lines challenges that fact in seeking to reopen a closed case. Former Chairman Gradison was not commenting on the issues in a pending case. She was reporting on a closed case and with no intention of prejudicing a ruling on Jefferson's petition to reopen that matter.

Mr. SABO. When the ICC allowed Greyhound to take over Trailways and gain control of over 90 percent of the intercity bus market, the Commission assured all the parties involved that this merger would be closely monitored. Has this merger been monitored and if so what has the commission concluded about the fairness?

[The information follows:]

When we approved the purchase of Trailways by Greyhound we chose not to impose a formal monitoring effort, such as an annual oversight hearing before an Administrative Law Judge, as a condition tied to our approval of the merger. We concluded that normal complaint mechanisms would be adequate in the unlikely event that any merger-related problems developed, but also noted that we would be monitoring the effects of the transactions as a part of our continuing oversight of the bus industry.

Commission staff monitors the intercity bus industry, as well as other modes of intercity surface transportation, on an ongoing basis. Our Office of Compliance and Consumer Assistance is active in resolving complaints received from the public regarding bus operations and service. Also, since Greyhound is self-insured, the Commission requires the carrier to submit quarterly financial and claims reports in addition to the regular financial reports required of all large carriers.

With respect to relations between Greyhound and other bus firms, we have seen that in those instances where Greyhound has retained or encountered rival bus companies after its purchase of Trailways, its inclination has been to enter into pooling agreements. The Commission has approved four such agreements under 49 U.S.C. 11342, and a fifth is pending. These typically were with bus firms that expressed reservations concerning the original Greyhound/Trailways transaction, but that have since expressed satisfaction with these new arrangements.

While the Commission has made no formal findings with respect to the fairness of the effects of merger, on the basis of our experience with the above activities it appears that the public has been adequately protected by the strong intermodal competition faced by bus firms and that the merger and pooling arrangements have benefitted both the traveling public and the participating carriers through efficiency gains.

H.R. 4139 AND S. 2210—D&H RAILWAY TRACKAGE RIGHTS

Mr. LEHMAN. Bills have been introduced in both the House and Senate (H.R. 4139 and S. 2210, respectively) which would require the ICC to grant trackage rights to the Delaware and Hudson (D&H) Railway in the event that Conrail and D&H are not able to reach a settlement. Please provide a short summary of the provisions of each of these bills and offer the ICC's opinion on them.

[The information follows:]

The text of the two bills is identical. Both require the Commission, within five days of enactment, to provide for access by a second, competitive rail freight carrier over routes from Montreal, Quebec through the State of New York via Harrisburg, Pennsylvania to Hagerstown, Maryland and to Potomac Yard, Virginia. The Commission is directed to utilize existing trackage rights arrangements wherever possible, to provide access to yards and the right to interchange traffic at specific points, to grant new trackage rights needed for the effectuation of competitive routes, and to ensure that the routes are designed to offer, and are suitable for, competitive rail service.

If the Commission considers new trackage rights necessary to establish the competitive routes required by the previous section, and if the parties have not agreed on the terms and conditions for those trackage rights by the end of the five-day period, the Commission shall grant the necessary trackage rights within 15 days after the expiration of that period and shall establish terms and conditions under the principle controlling compensation in condemnation proceedings.

The Commission takes no position on either bill. The Commission has attempted to preserve service over the lines of the D&H by issuing service orders permitting other carriers temporarily to operate over the D&H system. The Commission supports public and private efforts to continue service over the D&H system. If either bill is enacted, the Commission will do its best to implement it. The Commission recommends deletion of the reference in section 3 (a) to Montreal, Quebec, because the Commission does not have authority over trackage rights outside the geographic boundaries of the United States.

Mr. LEHMAN. Has the Secretary of Transportation taken a position on these bills? If so, what is his position?

[The information follows:]

The Secretary of Transportation at this time has not taken a position on either bill.

CAPITAL EVALUATIONS IN PROPOSED RAIL ABANDONMENTS

Mr. LEHMAN. The ICC uses the cost of capital as a prime factor in evaluating the economics of a proposed rail abandonment. Some in the industry have questioned the ICC's use of cost of capital as a primary measure, suggesting instead that opportunity cost should be given stronger consideration, and that not all railroads should be subject to the same measures of financial performance. Would you comment on this disagreement?

[The information follows:]

Since 1980, the Commission has considered opportunity cost to be a relevant factor in decisions to permit abandonment. Commission regulations specify that opportunity cost may be calculated by multiplying either the carrier-specific or industry-wide nominal cost of capital rate by the railroad's road property investment base, and then adjusting the result to reflect any projected holding gains or losses on the road property. This methodology is fully consistent with the principles of the Railroad Accounting Principles Board report issued in 1987.

A railroad is not precluded from submitting a different methodology for our consideration. The regulations specify that a railroad may, at its discretion, use an alternative methdology to calculate opportunity cost. Thus, current regulations accord the railroads considerable latitude to apply different measures of financial performance in abandonment proceedings.

Mr. LEHMAN. Mr. Coughlin?

Mr. COUGHLIN. No further questions, Mr. Chairman. Thank you.

Mr. PHILBIN. Thank you for having us.

Mr. LEHMAN. That concludes the hearing.

TUESDAY, FEBRUARY 27, 1990.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

WITNESSES

TRAVIS P. DUNGAN, ADMINISTRATOR

RICHARD R. JOHN, ACTING DIRECTOR, TRANSPORTATION SYSTEMS CENTER

ROSE A. McMURRAY, DIRECTOR, OFFICE OF PROGRAM MANAGEMENT AND ADMINISTRATION

ALAN I. ROBERTS, DIRECTOR, OFFICE OF HAZARDOUS MATERIALS TRANSPORTATION

GEORGE W. TENLEY, DIRECTOR, OFFICE OF PIPELINE SAFETY

Mr. LEHMAN. The Subcommittee will come to order.

This morning we will receive testimony on the fiscal year 1991 budget request for the Research and Special Programs Administration. That request totals $27,500,000, a 1 percent increase over fiscal year 1990. Our principal witness today is the Administrator, Travis P. Dungan.

We offer a special welcome today, Mr. Dungan, since it is your first appearance before us. We will be pleased to hear your statement at this time. You may read it or, if you prefer, you may summarize it. We will insert your entire statement and your biography in the record.

[The information follows:]

STATEMENT OF TRAVIS P. DUNGAN, ADMINISTRATOR
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
BEFORE THE
HOUSE APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION
FEBRUARY 27, 1990

Good Morning, I am pleased to be here today to present the President's budget request for the Research and Special Programs Administration (RSPA) for Fiscal Year 1991.

Mr. Chairman, since I have become Administrator of the Research and Special Programs Administration, I have focused my attention on the two major functional areas within RSPA which are cross-modal, those being safety and research.

In the safety area, RSPA is best known for its day-to-day operational responsibilities in pipeline and hazardous materials regulations. In addition to these important line responsibilities, thousands of safety inspectors and counter-terrorist experts are being trained every year at the Transportation Safety Institute in Oklahoma City. Moreover, RSPA's Office of Emergency Transportation (OET) serves as the Department's multi-modal emergency preparedness coordinator. While OET is one of our smaller offices, it was busy in 1989 providing support during the Eastern strike, Hurricane Hugo, and the Loma Prieta Earthquake.

On the research side, the Transportation Systems Center performs valuable research for the Department and other Federal agencies. Currently, it is on the cutting edge of providing newer and better technologies to provide enhanced safety, particularly in aviation. RSPA is also home to the Office of Research and Technology which has an important technology transfer function and serves to coordinate the Department's Research and Development Council. Also providing a research-related function, the Office of Aviation Information Management collects economic data on the airline industry.

As Administrator, I have several priorities which I would like to briefly discuss.

My top priority is to upgrade the Office of Pipeline Safety (OPS) to meet growing needs as the pipeline infrastructure ages. First, I have placed a new management team in charge of OPS and have asked them to provide more proactive management over the pipeline program.

Secondly, in the FY 1991 budget we are requesting additional resources in the pipeline area, including an increase in Pipeline Safety personnel from 51 to 60. Our plan is that eight of these nine people would focus on the enforcement side, and six of those would be field inspectors. I have been concerned that we need to do more inspections and to better cover our jurisdiction. These resources will help.

We are also requesting an additional $671,000 for the state grant-in-aid program. As you know, in the pipeline area, we have a strong Federal-state partnership. We want to encourage the continuation of this partnership by increasing the amount of funds going to states involved in our hazardous liquid program. Currently, only about 5 percent of their costs are covered versus 27 percent of those states participating in the gas program.

In a third area relating to pipelines, we are examining whether we need to undertake additional rulemakings to enhance the public safety. We are also looking at better cooperative relationships among Federal agencies to adequately cover the pipeline infrastructure. I will continue to focus my attention on OPS to strengthen it to meet current safety needs.

For our Office of Hazardous Materials Transportation, we have requested two additional inspectors. This office has seen continuous growth in recent years as the public becomes more concerned over the transport of hazardous materials. In the last year, this office has issued important rules in subjects such as:

- Hazardous materials incident reporting,
- Communication standards to aid emergency responders, and
- Cargo tank construction and maintenance practices.

Important rulemakings underway include:

- Performance-oriented packaging standards (essentially a revision of the Hazardous Materials Regulations),
- Enhanced training requirements for persons engaged in the transportation of hazardous materials, and
- Highway routing standards.

As Administrator, I will work to insure that the pipeline and hazardous materials programs continue to receive the important attention they merit.

With regard to research, the Bush Administration is committed to deploying more resources to help keep America competitive. The Secretary's National Transportation Policy will likely focus on enhanced transportation research. RSPA, with its several research functions including TSC, is well positioned to contribute to these goals.

One other issue of note in the RSPA budget is the request to change existing statutory language to allow the Department to evaluate and consider alternatives regarding use of the federally-owned land at the Transportation Systems Center. Such alternatives would be designed to enhance the TSC and could include various approaches, such as a public/private partnership to expand research in transportation. We will be pleased to work closely with your subcommittee on this issue.

In closing, Mr. Chairman, I appreciate the opportunity to discuss the FY 1991 RSPA budget. My staff and I look forward to working with you and your subcommittee to develop RSPA's resource base to continue our safety and research mission.

Program Overview

Currently, RSPA has responsibility for the following programs:

- Office of Pipeline Safety (OPS) - OPS is responsible for the development and enforcement of regulations necessary to ensure the safe transportation of hazardous liquids and natural gas by pipeline.

- Office of Hazardous Materials Transportation (OHMT) - OHMT is responsible for a national safety program to protect against risks to life and property inherent in the transportation of hazardous materials in commerce (other than bulk transportation on board vessels).

- Transportation Systems Center (TSC) - TSC's mission is to provide research, development and systems analysis support on a reimbursable basis to all of the Department's operating administrations, the Office of the Secretary, and other federal agencies.

- Office of Aviation Information Management (OAIM) - The OAIM program provides consistent and comprehensive air carrier financial and statistical data that portray the results of operations in the air transportation industry.

- Transportation Safety Institute (TSI) - (in the Office of Program Management and Administration) - TSI conducts comprehensive training programs in transportation safety and security for federal, state, and local government officials involved with all modes of transportation, e.g., training state truck safety inspectors.

- Office of Emergency Transportation (OET) - As the Department's emergency management organization, OET's mission is to develop plans for the coordination of the Department's headquarters and field response to the full range of emergencies from natural disasters to nuclear conflict.

- Office of Research and Technology (ORT) - ORT maintains oversight of the research and development programs conducted by the Department to assure that the programs are relevant, cost-effective, and responds to the needs of Federal, State and local officials, academia, and the transportation community. ORT coordinates the adoption of radionavigation systems and supports the University Transportation Centers programs funded by the Department.

- Office of Chief Counsel (OCC) - OCC provides enforcement support for pipeline safety and hazardous materials safety programs. In addition, OCC provides the litigation, regulation, legislative and general law support for all RSPA programs.

- Office of Program Management and Administration (OMA) - OMA provides the staff support necessary to meet internal and external administrative requirements throughout RSPA, including: contract and procurement activities, budget and financial management activities, personnel management activities, management analysis, ADP support, general administrative support and data collection and analysis.

- Office of the Administrator (ORP) - ORP provides the overall leadership of RSPA. The Administrator's staff is responsible for improving and expanding RSPA's programs in order to better contribute to the development of crossmodal functions.

In order for RSPA to implement fully and effectively these programs, and to continue both President Bush and Secretary Skinner's commitments to protect the public against risks inherent in the transportation of hazardous materials, RSPA is requesting a total of $27,523,000 for FY 1991. This total reflects $16,723,000 for Research and Special Programs and $10,800,000 for Pipeline Safety, which is funded entirely by user fees up to the amount prescribed in the annual appropriation.

Highlights of RSPA's request are as follows:

- An increase of $1,546,000 to fund the cost-of-living increases, performance awards, the Federal Employees Retirement System, and seventeen (17) new positions in RSPA, including:

- Nine positions in the Office of Pipeline Safety - - two for pipeline safety enforcement; six for pipeline safety field offices and one for pipeline safety regulation;

- Two positions in the Office of Hazardous Materials Trnasportation to increase the number of safety inspectors to 24;

- Three positions in the Office of Program Management and Administration to establish a Headquarters procurement activity needed to support the critical contracting needs of the Washington staff.

- Two positions in the Office of Chief Counsel to provide support for the increased level of enforcement in both the hazardous materials safety and the pipeline safety programs and to provide support for the transfer of RSPA's procurement function from the Transportation Systems Center (TSC) to headquarters;

- One position in the Office of Aviation Information Management to provide ADP support for work necessary to maintain useful aviation economic information and ADP services for DOT program purposes;

- An increase of $343,000 in other administrative costs to fund general adjustments in administrative categories. These categories include increases in rental payments to GSA; increases in the working capital fund; small increases in the printing, supplies and equipment accounts; the addition of a training account and increases in travel accounts to fund additional inspection activity;

- An increase of $671,000 in grant money to fund the natural gas and hazardous liquid pipeline safety grant-in-aid program. This funding is provided to states adopting and enforcing the Federal rules for intrastate natural gas and hazardous liquid pipelines;

A more detailed explanation of our programs, by office, follows:

OFFICE OF PIPELINE SAFETY (OPS)

RSPA is requesting an appropriation of $10,800,000 to carry out the Department's pipeline safety program. Included is $5,075,000 for operations and $725,000 for research and development. We are requesting a total of $5,000,000 for pipeline safety grants to the states--an increase of $671,000 over the FY 1990 level.

Under the Natural Gas Pipeline Safety Act (NGPSA), the Secretary is directed to establish safety regulations for facilities used in the transportation of natural gas and other gases by pipeline, both interstate and intrastate. Similar authority, the Hazardous Liquid Pipeline Safety Act (HLPSA), applies to the interstate and intrastate transportation of hazardous liquids by pipeline.

During the past year, significant actions have been initiated to enhance the effectiveness of the pipeline safety program. A new management team is in place, including the appointment of George Tenley, formerly RSPA's Chief Counsel, as the new Director of Pipeline Safety; new region chief assignments in the Southwest, Western, and Central regions; and the establishment of a Senior Technical Advisor position on Alaskan pipeline matters. To allow for optimum utilization of limited resources, the entire pipeline safety program is being placed on a risk-based foundation including: utilization of a risk-assessment based inspection plan to target inspections and the ranking of regulatory projects on the extent of risk. This approach will permit RSPA to better support the Administration's commitment to protect the environment, while at the same time maintaining our continuing commitment to safety. We are improving ways to identify and assess trends and measure the impact of those trends on our program. And finally, we are developing more active coordination with our federal partners to identify cooperative actions that will enhance safety and protect the environment.

RSPA's safety jurisdiction over pipelines covers more than 2,000 operators and 1.6 million miles of gas pipelines, and more than 200 operators and approximately 155,000 miles of hazardous liquid pipelines which transport petroleum, petroleum products, and anhydrous ammonia. Pipelines remain one of the safest modes of transportation. While the record is good, we are particularly concerned with the continuing problem of outside force damage that accounts for 39 percent of pipeline incidents. A summary of the causes of gas and hazardous liquid incidents for FY 1989 is attached as Appendix I. In addition, Appendix II reflects gas and hazardous liquid pipeline accidents and casualties over a 10-year period.

To address the problem of outside force damage, principally damage by mechanical excavation equipment, the gas pipeline regulations now require operators to have a damage prevention program in urban areas. RSPA plans to complete a rulemaking establishing a damage prevention program for gas pipelines and hazardous liquid pipelines in all locations this Spring. RSPA encourages operator participation in a utility locator system so that persons contemplating excavation can use the "one-call" utility locator to receive information on the exact location of pipelines in that area. RSPA also encourages the states to pass legislation requiring damage prevention programs. Thirty-nine states and the District of Columbia have enacted damage prevention legislation, and four states are considering such legislation. In accordance with the Pipeline Safety Reauthorization Act of 1988, RSPA intends to issue a notice in March seeking public comment on a regulation for state for the establishment and operation of one-call notification systems to enhance state damage prevention laws. RSPA is also currently evaluating a study on the feasibility of regulating persons whose excavation activities may result in damage to pipelines. A report on this effort will be made to Congress this Spring.

One of the most important safety initiatives at the Department is drug testing. All Department employees occupying "critical safety and security" positions are subject to random drug testing. Regulations were issued in 1988 requiring pipeline operators to institute an anti-drug program for employees who perform certain sensitive safety-related functions. The regulations are to be implemented in April 1990 by large pipeline operators (operators having 51 or more employees subject to drug testing), and in August 1990 by small pipeline operators (operators having 50 or fewer employees subject to drug testing). Three lawsuits were filed seeking to have the regulations invalidated. The U.S. Court of Appeals for the

Ninth Circuit has set a briefing schedule for two of the cases, which have been consolidated. The third case will likely be withdrawn by the plaintiff.

The Office of Pipeline Safety (OPS) has continued to improve the management of the enforcement program. A comprehensive review was conducted during 1989 to: (1) assess the feasibility of continuing the 2.5 year inspection cycle; (2) identify improvements that could be made to the pipeline safety inspection program; and (3) determine the resources that would be required to effectively carry out this program. As a result of this review, OPS is preparing a revision to its inspection plan to provide improvements in inspection effectiveness and staff resource utilization, while allowing greater regional office flexibility in determining priority inspections based on risks. The details of this revised inspection plan will be fully described to the Committee when RSPA submits its report in response to the Committee's direction on this matter in its Fiscal Year 1990 report. We will provide this information prior to March 15, 1990. The transition to the new inspection plan will begin in August 1990. By way of implementing the revised inspection plan, six additional inspectors and two enforcement support positions have been requested in FY 1991.

The new inspection plan will allow for additional field time required for accident investigation; new construction inspection; follow-up inspections for reported safety related conditions; and witnessing of required hydrostatic testing after an accident. The number of standard inspections for each inspector has been reduced from 32 to 20. This reduction is necessary since we have not been able to achieve an average of 32 inspections per inspector over the last two years. In attempting to achieve 32 inspections a year, we found that there was not enough time to carry out our other obligations in the field. The amount of time required to conduct a standard inspection is increasing as a result of major rulemakings issued in the last 2 years, including the safety-related conditions rulemaking and the drug rule. It is estimated that on an average basis, a standard inspection will take 3 days, as compared to 2.5 days under the existing plan. One inspector should average approximately 100 days away from the office per year.

In the regulatory program, notices of proposed rulemaking (NPRM) are being considered for a number of areas which include training and qualification standards for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines; requirements that pipeline maps and records be maintained to show the location and pertinent characteristics of pipelines, and that the information be provided upon request to state agencies for emergency response purposes; and requirements for maintaining inventories of pipeline facilities. These rulemakings all emanate from the Pipeline Safety Reauthorization Act of 1988. In addition, a final rulemaking will be issued later this year on requirements for greater specificity in natural gas operation and maintenance procedures.

RSPA has continued to study the failure data of electric resistance welded (ERW) pipe manufactured prior to 1970. For those liquid pipelines that are operating at their design pressure without benefit of a prior hydrostatic test, there is no proven margin of safety. In August 1989, RSPA completed a report on "Electric Resistance Weld Pipe Failures on Hazardous Liquid and Gas Transmission Pipelines." The findings in this report support the issuance of an upcoming NPRM that will propose, in the alternative, either hydrostatic testing of hazardous liquid pipelines that have never been tested in accordance with the standards for new pipelines, or a reduction in maximum operating pressure that will produce an equivalent safety margin.

The FY 1991 funding level requested for research and development will provide further development of data management software and data analysis programs, including cost and risk analysis. It will also allow RSPA to continue important ongoing projects, which include studying the comparability of safety requirements of hazardous liquid pipelines and gas pipelines; evaluating new pipeline component technology; studying hydrostatic test methods and retest intervals; and expanding the study of the feasibility, safety, cost, and effectiveness of requiring operators to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations.

The cornerstone of the Federal/State partnership that has proven so successful over the years is the state grant-in-aid program prescribed in the NGPSA and HLPSA. Forty-six states, Puerto Rico, and the District of Columbia have developed gas safety programs by adopting federal pipeline safety regulations and enforcing them with respect to intrastate operators with substantially the same sanctions as those employed by the Department. One of these states, Delaware, refers enforcement actions to the Department.

In 1990, 10 states are participating in the hazardous liquid program, nine states have adopted and enforce federal safety standards applicable to intrastate facilities, and one of these states, Mississippi, refers enforcement actions to the Department. We continue to provide grant monies and staff time to encourage states to take on more responsibility for pipeline safety. With the recent implementation of requirements for reporting safety-related conditions and the adoption of anti-drug abuse rules, these responsibilities have increased significantly.

The 1990 grant funds to be allocated in March consist of the $4,387,000 appropriated and the 1989 carryover of $58,000. The monies will be distributed to provide optimum funding in each state with a relatively small program (thereby providing maximum incentive), while also providing incentive funding in each state with a more extensive program. The remaining amount will be distributed according to certain qualitative criteria designed to assure an adequate level of safety. The criteria used by RSPA are: extent to which jurisdiction is exercised; inspector qualifications; recommended number of inspectors and recommended number of inspection person-days; third-party damage prevention program; and attendance at Federal/State meetings. In addition, this year we have added performance points based on a state's record of over-estimating on its grant application. This provision addresses the Subcommittee's direction expressed in its report on the Fiscal Year 1990 budget that we take steps to reduce the annual carryover of grant funds.

The funding requested for FY 1991 will allow the hazardous liquid grant program's 5 percent minimum level to be increased to 10 percent, and achieve a funding level similar to that provided state agencies under the natural gas safety grant-in-aid program. Further, it will provide incentive for additional states to participate in the liquid grant program and reinforces RSPA's position that both programs are equally important to public safety. This level of funding will allow for additional funding of the liquid program without a reduction of funds for the natural gas program. By encouraging states to carry out inspection and enforcement activities, which by law are otherwise under federal jurisdiction, the grant program advances the federalism concept while reducing the amount of federal dollars required for inspection programs. Although RSPA has made significant progress in increasing state responsibility, over 200 inspection units that should be turned over to the states, as well as a large number of master meter systems, remain a federal inspection responsibility. Increased grant funding would also provide a more cost effective approach to an increase in inspection capability since states provide matching or greater funding.

The Pipeline Safety Reauthorization Act of 1988 provides for additional state funding in Section 301 (Grants-In-Aid Authorization). In order to be eligible, the state agency in 1988 or thereafter must (1) undertake new responsibilities under Section 5(a) of the NGPSA or Section 205(a) of the HLPSA or (2) implement a one-call damage prevention program established under state law.

Funding for Section 301 grants comes from grant funds that were not expended in 1986 and 1987 and total $486,447. There are seven state agencies that are eligible for these additional grant funds. No state may receive an additional allocation that will provide a total 1988 grant allocation of more than

50 percent of its allowable pipeline safety costs or $75,000, whichever is less. In 1989, OPS modified the 1988 grant reimbursement by allocating $293,325 of these funds. The balance will be carried over and will remain available for these purposes until expended.

OFFICE OF HAZARDOUS MATERIALS TRANSPORTATION

RSPA is requesting an appropriation of $9,719,000 to carry out the hazardous materials transportation program. This figure includes $8,594,000 for operations and $1,125,000 for research and development. It reflects an increase of two (2) positions for hazardous materials inspectors and a decrease of $766,000 in budget authority for operations primarily due to the non-recurring cost of republishing the Emergency Response Guidebook, which was included in the FY 1990 budget. This will bring the total number of authorized inspector positions up to 19, not including the three program managers who perform inspections on only a part-time basis.

This budget level will enable RSPA to continue an aggressive rulemaking and enforcement program. It will also further our federal/state partnership by augmenting the technical assistance we can provide to State enforcement programs through the Cooperative Hazardous Materials Enforcement Development (COHMED) program.

The safety record for the transportation of hazardous materials in the United States has been outstanding. Last year, of the 7,476 reported incidents nationwide involving hazardous materials transportation, there were 4 fatalities and 316 injuries. A chart of reported incidents occurring from 1980-1989 is attached as Appendix III.

I am committed to ensuring that this excellent safety record continues. The budget for FY 1991 will enable RSPA to continue to improve hazardous materials transportation safety through a multifaceted program that focuses upon: (1) research and rulemaking; (2) inspection and enforcement; (3) emergency prevention and response support; and, (4) information and analysis. To demonstrate the broad scope of RSPA's commitment to hazardous materials transportation safety, I would like to highlight some of our FY 1990 accomplishments and FY 1991 goals in each of these program emphasis areas.

Rulemaking -

RSPA expects to be extremely active in the rulemaking area during FY 1990. We plan to address a variety of topics, including: cargo tank safety, comprehensive training requirements, and transportation of air bag inflators and modules for passenger restraint systems.

In our largest and most comprehensive regulatory initiative to date (known as Rule HM-181), we will propose the adoption of performance-oriented packaging standards and an improved hazard classification system.

This single rulemaking proposal is intended to:

1) Simplify the regulations and make them easier to use;
2) Enhance transportation safety by improving classification and packaging standards for hazardous materials;
3) Provide flexibility for packaging manufacturers and shippers to use economical packagings, implement technical innovations and reduce the need for exemptions;
4) Harmonize domestic regulations with international regulations to eliminate "dual compliance" costs, facilitate international trade and promote a worldwide system of consistent regulatory requirements.

This proposal affects more than 1000 pages in the Code of Federal Regulations. Simply printing the notice in the Federal Register costs more than $80,000. Because of the scope of this project and the extensive technical review necessary, RSPA will not complete this project in FY 1990.

There is significant public interest in this rulemaking proposal because of its potential impacts on the regulated industry and because United Nation's performance standards become mandatory in international transport on January 1, 1991. RSPA plans to issue a final rule in the first quarter of FY 1991.

In FY 1990, RSPA will complete a major research project on the development of specific accident survival performance criteria for the packaging of bulk quantities of materials that are toxic by inhalation or pose other high hazards. In FY 1991, RSPA will initiate validation testing of the design methodology and performance testing standards which are critical for implementation of accident survivability criteria.

Inspection and Enforcement -

During FY 1990, a primary goal of RSPA's inspection and enforcement program has been to increase the number of inspections performed and to reduce the rate of non-compliance. As the following numbers demonstrate, we have achieved a degree of success:

	1988	1989	% Change
Inspections/Shipment Observations	731	788	+7.8
Cases Initiated	121	157	+29.8
Cases Closed	98	118	+20.4
Penalties Collected	$392,900	$408,600	+4.0

We have also continued to expand the scope of our enforcement efforts through cooperation with other agencies -- within DOT, elsewhere in the Federal government and at the state level.

RSPA plans to continue and build upon the productive federal/state partnership that has grown out of the COHMED Program. In FY 1990, we are focusing on uniformity in hazardous materials enforcement and sanctions, stressing the importance of a single set of safety regulations, uniformly applied, as the key to a nationwide hazardous materials transportation safety program. In FY 1991, we plan to continue these efforts while placing special emphasis on the importance of enforcement in preventing hazardous materials incidents.

Emergency Prevention and Response Support

In FY 1990, RSPA will be publishing the third revised edition of the Emergency Response Guidebook (ERG). The current edition of this widely used safety guide was published in 1987 and has been distributed to more than one million emergency responders nationwide. The 1990 edition of the ERG is being finalized for printing now and distribution is planned to begin in June of 1990.

In FY 1991, RSPA also plans to develop an information program which will ensure that those who use the ERG are made aware of the changes in the 1990 edition. This is a new program initiative to support distribution with additional guidance on correct use of the guide. Emphasis will be placed on public protection, new chemicals and protective equipment.

Information and Analysis

RSPA maintains a wide variety of hazardous materials databases and information systems which are referred to collectively as the Hazardous Materials Information System (HMIS). The HMIS is a direct-access system with multiple users at different locations who use it for a wide variety of analytical enforcement and training applications. Users include all of the Department, the National Transportation Safety Board, the Department of Defense and state agencies. The HMIS is also available to state, regional and local governments for use in hazardous materials planning and enforcement.

In FY 1991, RSPA plans to continue system modifications and improvements on the HMIS as part of the multiyear program of necessary enhancement designed to reflect and incorporate regulatory changes. It will also expand the system's capacity to respond to the additional demands being placed on it by the expanded user community.

RSPA also represents the United States in several international forums that develop international standards for the transportation of hazardous materials. Application of international standards by governments throughout the world can have a profound impact on U.S. exports of hazardous materials. The international organizations in which RSPA participates include:

1) The Committee of Experts on the Transport of Dangerous Goods of the United Nations Economic and Social Council (ECOSOC);
2) The Subcommittee on the Carriage of Dangerous Goods of the International Maritime Organization (IMO);
3) The Dangerous Goods Panel of the International Civil Aviation Organization (ICAO);
4) The Group of Experts on the Transport of Dangerous Goods of the United Nations Economic Commission for Europe (ECE); and,
5) The International Atomic Energy Agency (IAEA).

RSPA's objective is to ensure that the standards adopted by these international bodies provide satisfactory levels of safety and do not create artificial barriers to entry to the U.S. hazardous materials industry. It is in this spirit that we are attempting, through HM-181, to harmonize domestic and international standards in a manner that will not compromise established levels of hazardous materials safety.

TRANSPORTATION SYSTEMS CENTER (RSPA/TSC)

RSPA/TSC, located in Cambridge, Massachusetts, is the Department's transportation and logistics research and analysis center. Both through in-house work and contracting out, RSPA/TSC provides study, analysis, system development and research to meet the needs of Office of the Secretary of Transportation, the operating administrations, and other federal organizations.

The FY 1991 budget would provide 515 positions for RSPA/TSC, a reduction of three positions from FY 1990. As in prior years, no budget authority is requested for the FY 1991 budget because RSPA/TSC is funded through a Working Capital Fund. RSPA/TSC's Working Capital Fund is financed through negotiated agreements with project sponsors. RSPA/TSC's program level reached $126 million in FY 1989, and is estimated to be at least $140 million in FY 1990 and $151 million in FY 1991.

The Center currently has about 350 active projects, ranging in annual obligations from under $100,000 to over $10,000,000. About three quarters of RSPA/TSC's work is conducted for Department agency sponsors. The balance is sponsored by DOD agencies, such as the Logistics Directorate of the Joints Chiefs of Staff, the Transportation Command (TRANSCOM), plus civilian departments and agencies including State, Commerce, NASA, and EPA. Since FY 1982, RSPA/TSC has experienced a nearly threefold increase in program level (from $44,000,000, then, to $125,000,000 in FY 1989).

The Center's efforts focus on national priorities that involve national transportation policy development, safety, security, and infrastructure modernization. Recent examples of this effort include participation in the Secretary's development of a national transportation strategy, initial investigation and development of a plan for assessment of safety issues concerning New York City transit, and participation in the FAA's joint industry/government task force concerning the safety of older aircraft operating in the U.S. fleet. Ongoing safety activities include projects concerned with the structural integrity and crashworthiness of vehicles, structural integrity of aging aircraft, and human factor aspects of operator performance and safety inspection. Security efforts include vapor detection technology for explosives and drugs, as well as computer vulnerability assessment of the nation's air traffic control system. RSPA/TSC's current assistance to FAA includes the nationwide deployment of equipment to better enable air traffic managers to alleviate problems of traffic congestion and delay. Assistance is given in modernizing the nation's infrastructure through work involving the technical management of DOD programs to rehabilitate military rail transportation systems. The Center also provides integrated technical and management support to multiple agencies involved in cross cutting national issues. Certain information products improve the nation's ability to safely route and track shipments involving hazardous materials. Others, such as RSPA/TSC's "INTRANSIT" satellite tracking facility - permitting computer display of remotely monitored vehicles - help reduce logistics costs, enhance oversight of shipments, and increase the effectiveness of drug interdiction and search & rescue missions.

The FY 1991 budget contains proposed language as a General Provision that would allow the Department of Transportation to evaluate and consider alternatives which enhance the flexibility of the Department regarding the use of federally-owned land surrounding the Transportation Systems Center (RSPA/TSC). Such alternatives would include various approaches along the lines of a public/private partnership to expand research in transportation. However, the current statutory restriction prevents us from identifying and evaluating alternatives.

The RSPA/Transportation Systems Center has a growing list of distinguished accomplishments in service to the nation's transportation sector. Therefore, we are asking the Congress to lift the ban on planning and allow the Department to look at options to enhance TSC's position as a National Transportation Systems Center.

OFFICE OF AVIATION INFORMATION MANAGEMENT (OAIM)

The AIM program provides scheduling, financial and traffic information resources, and support services necessary for the Department to make informed and timely decisions concerning operations of air carriers. OAIM is the primary source of information on the economic and operational aspects of the air transportation industry. Current Department users of the AIM program's basic data products and services include:

1) The Federal Aviation Administration (FAA) (e.g., for safety surveillance and analysis, airport development funds allocation, airport policy development, and airway facilities requirements forecasting).
2) The Office of the Secretary (OST) (e.g., flight delay information for consumer concerns, international policy development including negotiation of routes, carrier selection, fares and rates, fitness determination and industry monitoring).

Other Federal agencies using the data include the Departments of Justice, Commerce, Labor and the U.S. Air Force. The Office of Technology Assessment, the General Accounting Office, the National Mediation Board, and the Securities and Exchange Commission also use this data.

The FY 1991 budget request for AIM operations is $2,442,000. The request provides for the continuation of basic AIM program activities and user services at a level comparable to FY 1990. Routine AIM data collection and processing activities will be partially funded with user reimbursements from FAA and a few non-federal parties in FY 1991 and FY 1990. AIM's FY 1991 budget also requests an additional position to accomplish the basic minimum level of work required to service all of its users. The position is needed to increase RSPA's core staff of ADP technical experts. Previous attempts to rely on contractors in this area have not been successful due to their lack of institutional knowledge and high turnover rate of contractor staff.

In addition, in support of the continuing effort to offset the costs of AIM operations with user fees to the maximum extent possible, RSPA proposes continuation of appropriation language in FY 1991 that would enable the agency to credit to the RSPA appropriation all such fees collected.

In FY 1991, AIM will complete first full-year operations of a major new data collection system (T-100) that improves U.S. and foreign air carrier reporting of traffic statistics by service segment and market. The single standard system will contain data for both U.S. and foreign air carriers, domestic and international operations, scheduled and charter flights, and passenger and cargo service. This system, begun in FY 1989, provides a more comprehensive and timely data base for Department programs. The FY 1991 work plan includes great emphasis upon the provision of timely and high quality data collection, data processing, and ADP services for the T-100 and other critical data banks. We also anticipate a high demand for special computer manipulations of the first full year of T-100 data for analytical purposes.

AIM plans several major rules in FY 1990 to improve data collection systems while reducing reporting burdens. For example, we envision completion of proposals to:

1) Standardize the Department's economic reporting threshold for large vs. small air carriers, thereby relieving small air carriers of unnecessary reporting burdens
2) Implement a subset of T-100 traffic data reporting for commuter air carriers to reduce their reporting burden and integrate their traffic data with large air carrier reports.

In FY 1991 we plan to complete a major study begun in FY 1990 to evaluate the alternative sources for Passenger Origin-Destination Survey data in view of changes in the air transportation industry and DOT needs. A proposed rule may be pursued that seeks to improve the survey's data. Another significant activity in FY 1991 will be continuation of a major project begun in FY 1990 to modernize our processing and user servicing systems. Many important manual systems, computer systems and programs outgrown by industry changes are inefficient and expensive to operate and maintain, or often delay user access to aviation data. The AIM program expects to use up to $304,000 in operation program dollars in FY 1990, and is asking for $24,000 in FY 1991 to maintain this multiyear initiative. At the same time, AIM will emphasize the maintenance of on-time and accurate data banks, and the timely generation of aviation information products, to provide the minimum support needed by OST and FAA programs.

OFFICE OF RESEARCH AND TECHNOLOGY (ORT)

The ORT maintains oversight of, and helps coordinate the Department's research programs. This includes assuring that the results of this research are made available in useful form to the entire transportation community, particularly State/local elected and appointed officials. As part of this process through its Technology Sharing Program, ORT responds to over 60,000 requests for technical information from state and local governments and the transportation community annually. The Office publishes 20 to 30 technical reports each year which are developed cooperatively with other Department administrations, state and local government agencies, and the Department's University Transportation Centers Program. Topics of the reports are typically priority concerns of the various user groups, with recent emphasis on innovative funding approaches for new systems and innovative solutions to shared transportation problems.

Working through the Department's R&D Coordinating Council, ORT helps identify needs and problem areas for new research. It works with, and provides advice to, the formulation process for the other Operating Administrations as they formulate their research agendas. This ensures that the R&D program undertaken by the Department reflects current and future needs and opportunities, is cost effective, is appropriate for conduct by the Federal government as R&D, and is not currently being conducted elsewhere. ORT serves as a catalyst for the initiation, conduct, and dissemination of multimodal applicable research on a consistent or standard basis.

ORT also coordinates the development of radionavigation and communication systems and policy dealing with them, throughout the Federal government, and on an international scale. The Office prepares the biennial Federal Radionavigation Plan, which guides the evolution of the navigation systems serving both the civil sector and the military. It has a particularly key role in evolving civil sector applications for the new Global Positioning System (GPS).

OFFICE OF EMERGENCY TRANSPORTATION (OET)

OET executes the statutory and administrative responsibilities of the Secretary of Transportation in the area of national security and domestic emergency civil transportation policy. These responsibilities include planning and management of Departmental emergency program activities, and the development of emergency planning policy for and coordination of the activities of other elements of the Federal transportation community, the civil transportation industry, and state and local authorities. This mandate covers the Department's response to a full range of potential emergencies including earthquakes, nuclear power plant accidents, labor/management disputes, mobilization for war, and nuclear attack recovery. The scope of OET's activities includes not only Headquarters, but also the field elements of the Department, which are managed by OET's ten Regional Emergency Transportation Coordinators.

During the past year, OET developed and implemented major Government-wide national security emergency preparedness program activities. Accomplishments include:

1) Continuing assessment and enhancement of the Department's emergency preparedness program in accordance with White House initiatives;

2) Issuance of major improvements to two key Departmental emergency response plans and three emergency directives;
3) An extensive training and exercise program, involving more than 30 sessions around the nation for the Departmental emergency executive teams and organizations, staffed by both Federal employees and volunteer reservists from private industry;
4) Coordination of the civil transportation sector support to the Department of Defense's (DOD) mobilization planning;
5) Development of enhanced data systems to assure appropriate transportation information is available to meet emergency response requirements, both for defense and essential civil needs;
6) Managing the Civil Reserve Air Fleet program, which allocates nearly 500 U.S. commercial aircraft to DOD in emergencies, and the associated War Air Service Program;
7) Serving as the U.S. representative to NATO's Civil Aviation Planning Committee (CAPC) which provides for airlift support from other Alliance nations to DOD for rapid reinforcement of NATO; and

8) Continuing a program of joint planning and coordination meetings with Transport Canada to provide for mutual support in domestic and international emergencies.

In addition, OET managed the successful transportation response to several serious disasters, most notably the Loma Prieta earthquake, and was deeply involved in the Eastern Airlines strike situation.

In FY 1991, OET's major efforts will be directed toward these crucial elements of emergency management: continue modernization of the Departmental emergency preparedness program; develop and conduct annual training and exercises for the 1000 plus members of the Department's emergency organizational structure; implement improvements to the Department's response capabilities for catastrophic disasters based on lessons learned from recent disasters; provide the lead role for the Department's responsibilities in the Nation's strategic mobility planning to assure effective utilization of civil transportation services required to meet DOD mobilization and deployment plans, balanced against essential civil needs; publish revisions to three major Departmental emergency manuals; continue to provide U.S. representation to NATO's Civil Aviation Planning Committee activities to insure protection of U.S. interests in some 15 meetings of CAPC and its technical subgroups; expand the emergency planning working relationship with Transport Canada; maintain a high level of

Departmental response readiness for catastrophic natural and technological disasters; and respond to disasters and crises as these occur. For FY 1991, OET is requesting $999,000 to support the operational activities and to continue its research and development programs.

TRANSPORTATION SAFETY INSTITUTE (TSI)

TSI is the DOT's primary multi-modal provider of transportation safety and security training and related technical assistance. During FY 1989, about 17,000 students were trained in TSI sponsored classes with an additional 90,000 students taught through active extension programs, primarily reaching state and local government transportation personnel.

As a reimbursable activity, RSPA provides executive oversight and direction to TSI in behalf of user organizations which now includes seven (7) DOT administrations as well as four(4) other Federal departments. These resources also allow TSC to sponsor seventeen (17) safety and security programs. An advisory board, with representatives from each sponsor and chaired by the Administrator, RSPA, provides critical input for the operation and direction of the Institute.

Agencies using TSI for training and other technical assistance provide funding and positions through annual reimbursable agreements. For example, the FHWA conducts six-week academy type pass-fail classes for its new safety inspectors. FHWA has also located its Drug Interdiction Assistance Program at TSI to provide grant request assistance and training to state personnel in this sensitive area. The National Transportation Safety Board has located its primary training school at TSI to train its accident investigators and other personnel. The RSPA Office of Pipeline Safety provides a unique and comprehensive curriculum of pipeline safety courses for state and federal pipeline safety inspectors. Aviation security training is provided to FAA security agents and airport operators by the FAA. The Department of State sponsors training of foreign nationals in aviation and airport security at TSI with an overseas evaluation follow-up and seminars. RSPA actually funds only the positions of Director and secretary with all other positions funded by sponsor agreements.

This year RSPA is again proposing to continue language to credit to its appropriation tuitions from non-Departmental sources for hazardous materials training. In the reauthorization of the pipeline safety program for FY 1989-1991, Congress also granted authority to the Department to credit fees received from the private sector for pipeline safety training. In FY 1989, $202,222 was collected from non-Department sources for hazardous materials and $27,988 for pipeline safety training. In FY 1991, TSI projects collecting about $100,000 for hazardous materials training and $30,000 for pipeline safety training. Authority to credit this money to the RSPA appropriation enables RSPA to greatly enhance its training capabilities by allowing monies to be reapplied to the training endeavor.

STATISTICS, DATA AND INFORMATION

RSPA has the responsibility within the Department for planning, developing and maintaining a coordinated transportation statistics and information program. The program is responsible for the collection, analysis, and dissemination of technological data, economic data, and other types of domestic and international transportation information. The FY 1991 request for this program is $110,000, a reduction of $24,000 in FY 1990.

In conclusion, as the transportation environment moves into the 21st century RSPA is strengthening both safety and research policies. In order to increase RSPA's inspection and enforcement staff, additional funds and positions are currently needed. I hope you agree that these increases are both needed and justified.

Appendix Ia

SUMMARY OF LIQUID PIPELINE
INCIDENT REPORTS (DOT Form 7000-1)
RECEIVED IN 1989

02/06/1990

INCIDENT SUMMARY BY CAUSE

CAUSE	# OF INCIDENTS	% OF TOTAL	BARRELS LOST	PROPERTY DAMAGES	% OF TOTAL	DEATHS	INJURIES
Internal Corrosion	5	3.11	750	$20,440	0.28	0	0
External Corrosion	27	16.77	18,263	$491,655	6.79	0	0
Defective Weld	7	4.35	8,408	$343,000	4.73	0	0
Incorrect Operation	9	5.59	4,391	$94,609	1.31	0	3
Defective Pipe	13	8.07	80,161	$766,523	10.58	0	0
Outside Damage	43	26.71	44,461	$2,457,904	33.92	2	32
Malf. of Equipment	8	4.97	3,260	$526,020	7.26	0	0
Other	49	30.43	41,550	$2,545,014	35.13	1	3
TOTAL	161	100.00	201,244	$7,245,165	100.00	3	38

INCIDENT SUMMARY BY COMMODITY

COMMODITY	# OF INCIDENTS	% OF TOTAL	BARRELS LOST	PROPERTY DAMAGES	% OF TOTAL	DEATHS	INJURIES
Alkyate	0	0.00	0	$0	0.00	0	0
Anhydrous Ammonia	1	0.62	1	$0	0.00	0	1
Condensate	1	0.62	40	$26,000	0.36	0	0
Crude Oil	68	42.24	117,082	$3,352,568	46.27	0	2
Diesel Fuel	7	4.35	3,511	$253,740	3.50	0	0
Fert., Ammon. Nitr.	0	0.00	0	$0	0.00	0	0
Fuel Oil	11	6.83	3,550	$536,196	7.40	0	0
Gasoline	40	24.84	18,113	$1,029,220	14.21	2	32
Jet Fuel	2	1.24	2,037	$56,920	0.79	0	0
Kerosene	2	1.24	5,110	$79,600	1.10	0	0
L.P.G.	15	9.32	19,239	$1,450,678	20.02	1	0
Natural Gas Liquid	11	6.83	27,432	$451,743	6.24	0	3
Oil and Gasoline	1	0.62	75	$3,500	0.05	0	0
Toulene	1	0.62	211	$5,000	0.07	0	0
Turbine Fuel	1	0.62	4,843	$0	0.00	0	0
Xylene	0	0.00	0	$0	0.00	0	0
TOTAL	161	100.00	201,244	$7,245,165	100.00	3	38

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Appendix Ib

SUMMARY OF NATURAL GAS
TRANSMISSION & GATHERING PIPELINE
INCIDENT REPORTS (DOT or RSPA F 7100.2)
RECEIVED IN 1989

INCIDENT SUMMARY BY CAUSE

CAUSE	# OF INCIDENTS	% OF TOTAL	PROPERTY DAMAGES	% OF TOTAL	DEATHS	INJURIES
Internal Corrosion	12	12.24	$1,125,149	5.58	0	0
External Corrosion	18	18.37	$721,409	3.58	0	0
Damage from Outside Forces	32	32.65	$7,332,050	36.38	11	9
Construction/Material Defect	11	11.22	$933,354	4.63	1	0
Other	25	25.51	$10,043,620	49.83	10	10
TOTAL	98	100.00	$20,155,582	100.00	22	19

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Appendix Ic

SUMMARY OF NATURAL GAS
DISTRIBUTION PIPELINE
INCIDENT REPORTS (DOT or RSPA F 7100.1)
RECEIVED IN 1989

INCIDENT SUMMARY BY CAUSE

CAUSE	# OF INCIDENTS	% OF TOTAL	PROPERTY DAMAGES	% OF TOTAL	DEATHS	INJURIES
Internal Corrosion	0	0.00	$0	0.00	0	0
External Corrosion	6	3.77	$278,500	4.02	3	2
Damage from Outside Forces	94	59.12	$4,000,816	57.80	5	33
Construction/Material Defect	9	5.66	$227,000	3.28	1	4
Accidently Caused by Operator	8	5.03	$400,000	5.78	0	9
Other	42	26.42	$2,015,500	29.12	5	11
TOTAL	159	100.00	$6,921,816	100.00	14	59

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Appendix IIa

SUMMARY OF GAS PIPELINE ACCIDENTS AND CASUALTIES REPORTED FROM 1980-1989 AS REQUIRED BY 49 CFR PART 191

DISTRIBUTION

Report Year	Failures	Fatalities	Injuries
1980	1,467	9	269
1981	1,128	10	73
1982	1,191	20	225
1983	1,127	10	220
1984	747	26	189
1985	204	20	94
1986	136	19	86
1987	161	9	88
1988	170	15	76
1989	159	14	59

Transmission and Gathering

Report Year	Failures	Fatalities	Injuries
1980	529	2	41
1981	495	6	6
1982	520	11	41
1983	453	2	25
1984	255	9	40
1985	127	6	12
1986	83	4	20
1987	68	0	13
1988	88	3	11
1989	98	22	19

Note: Amendment 191-5, 49 FR 18961, May 3, 1984, Changed the definition of "incident" as follows: eliminated the requirement to report when taking any segment of a transmission pipeline out of service, eliminated the requirement to report if gas ignited, and increased the level of estimated property damage from $5,000 to $50,000.

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Appendix IIb

SUMMARY OF LIQUID PIPELINE ACCIDENTS AND CASUALTIES
REPORTED FROM 1980-1989

Report Year	Failures	Fatalities	Injuries
1980	219	3	12
1981	239	5	32
1982	200	1	6
1983	161	6	9
1984	203	0	19
1985	183	5	18
1986	203	3	32
1987	237	3	20
1988	196	2	19
1989	161	3	38

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02/20/1990

INCIDENT STATISTICS DE AND REPORTING YEAR

INCIDENTS BY MODE AND INCIDENT YEAR

MODE	1980	1981*	1982	1983	1984	1985	1986	1987	1988	1989**	TOTAL
AIR	224	158	95	66	102	114	120	163	172	187	1401
HIGHWAY	14162	8658	5662	4872	4508	4752	4614	4952	4903	5972	63055
RAILWAY	1270	1138	830	868	996	842	855	886	1019	1178	9882
WATER	34	8	8	12	8	7	7	15	18	10	127
FREIGHT FORWARDER	2	3	6	1	145	298	150	118	78	127	928
OTHER	29	60	1	1	6	6	12	1	1	2	119
TOTALS	15721	10025	6602	5820	5765	6019	5758	6135	6191	7476	75512

DEATHS BY MODE AND INCIDENT YEAR

MODE	1980	1981*	1982	1983	1984	1985	1986	1987	1988	1989	TOTAL
AIR	0	0	0	0	0	0	0	0	0	0	0
HIGHWAY	17	25	13	8	6	8	16	10	19	4	126
RAILWAY	2	0	0	0	0	0	0	0	0	0	2
WATER	0	0	0	0	1	0	0	0	0	0	1
FREIGHT FORWARDER	0	0	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0	0	0
TOTALS	19	25	13	8	7	8	16	10	19	4	129

INJURIES BY MODE AND INCIDENT YEAR

MODE	1980	1981*	1982	1983	1984	1985	1986	1987	1988	1989	TOTAL
AIR	8	7	0	3	15	4	12	26	6	54	135
HIGHWAY	493	395	88	118	147	195	229	247	127	204	2243
RAILWAY	121	222	36	68	76	53	59	25	36	36	732
WATER	1	1	1	0	18	0	2	8	0	7	38
FREIGHT FORWARDER	1	0	0	0	3	1	12	25	0	15	57
OTHER	2	16	0	0	0	0	2	0	0	0	20
TOTALS	626	641	125	189	259	253	316	331	169	316	3225

DAMAGES BY MODE AND INCIDENT YEAR

MODE	1980	1981*	1982	1983	1984	1985	1986	1987	1988	1989	TOTAL
AIR	12285	6560	26826	52525	770956	12299	62813	13779	562176	105011	1625230
HIGHWAY	7340381	14172078	11381564	9253755	11118351	12689492	13106727	15648693	18550764	15115458	128377263
RAILWAY	2952458	3632150	4331465	2559130	3353339	10273671	3077825	7554815	2432476	10399206	50566535
WATER	505408	53045	30000	76088	509029	3242	53500	99930	75362	39900	1445504
FREIGHT FORWARDER	100	6500	35	300	14011	13918	102117	51126	15009	37655	240771
OTHER	34560	38010	200	16500	975	515	3385	50	2700	2600	99495
TOTALS	10845192	17908343	15770090	11958298	15766661	22993137	16406367	23368393	21638487	25699830	182354798

* EFFECTIVE JANUARY 1, 1981, THE REPORTING REQUIREMENTS WERE CHANGED TO EXCLUDE INCIDENTS INVOLVING CONSUMER COMMODITIES, WET ELECTRIC STORAGE BATTERIES, OR PAINT, ENAMEL, LACQUER, STAIN, SHELLAC, ETC., IN PACKAGINGS OF 5 GALLONS OR SMALLER UNLESS THE INCIDENT RESULTS IN DEATH, INJURY OR PROPERTY DAMAGE OVER $50,000; THE MATERIAL IS BEING TRANSPORTED BY AIR; OR THE MATERIAL IS CLASSIFIED AS A HAZARDOUS WASTE.

** PRELIMINARY DATA AS OF FEBRUARY 20, 1990.

NOTE: THE CHANGE IN THE NUMBER OF HAZARDOUS MATERIALS INCIDENTS REPORTED FOR 1989 PRIMARILY INVOLVES SMALL PACKAGE SHIPMENTS.

Travis P. Dungan

Administrator

Research and Special Programs Administration

Type Appointment: Senior Executive Service
Non Career

Education:

B.A., Harvard University (1974)

M.B.A., Stanford University (1977)

Professional Experience:

1988-1989	Deputy Under Secretary, U.S. Department of Commerce
1987-1988	Deputy Secretary of Commerce, State of Florida
1985-1987	Vice President and Treasurer, Overseas Private Investment Corporation
1984-1985	Deputy Assistant Secretary, U.S. Department of Commerce
1981-1984	Senior Management Consultant, Peat, Marwick, Mitchell and Co.
1980-1981	President, Carter Construction Co.
1977-1980	Assistant Vice President, Wells Fargo Bank

Awards and Honors:

Cum Laude—1974

JULY 1989

Opening Statement

Mr. **Dungan**. Thank you, sir. Good morning, Mr. Chairman and fellow Congressmen.

I am very pleased to be here this morning to present the President's budget request for the Research and Special Programs Administration for Fiscal Year 1991. Like you, Mr. Chairman, as a proud public servant and also as a fellow southern South Florida resident, we are both, I am sure, committed to having a safe, efficient and competitive transportation system.

Before I go any further, I would like to introduce the important people I have at the table from my operation. To your far right is George Tenley who was the Chief Counsel until recently when we moved him over to the Office of Pipeline Safety where he is now the Director.

Then we have Rose McMurray, who is our Director, Office of Management and Administration. To your left, Al Roberts, who is the Director of the Office of Hazardous Materials-Transportation. To your far left, Dr. Richard John, who runs the Transportation Systems Center up in Cambridge.

We have a long statement which we have given to you for the record, but I would like to give you a couple of my impressions during my ten months at RSPA. I see RSPA as having been an underdog or under-recognized agency at DOT. It was made up of a lot of odds and ends that did not fit anywhere else in the Department, but they ended up in RSPA. I have found during my time there that it is an outstanding agency and that given the team we have assembled I think we are going to do great things to energize RSPA and make it perform better than ever.

Fortunately, my career is filled with turning around underdog type situations, so I enjoy this type of work and I have enjoyed putting together a topnotch staff, not just on the political side, but on the career side. We have some very dedicated people who have a great deal of experience in the fields in which we are operating.

One of the first things I did was look at every single office in RSPA and assess its strengths and weaknesses. What I found is that certain offices had received very little management attention. To give you an example, the Transportation Systems Center in Cambridge who will be doing $140,000,000 worth of consulting for various government agencies this year was laboring in obscurity. I have spent a lot of time introducing the Secretary and other Departmental Modal Administrators to TSC.

We also had the first retreat of RSPA personnel. We came up with a mission to focus on safety and research. You can divide our other offices one way or the other.

On the safety side, in addition to the pipeline safety and the hazardous materials transportation responsibilities that we have, we graduate 20,000 state, local, federal and international anti-terrorism and safety inspectors which are used by the FAA, in pipeline inspections and so on.

We also have an Office of Emergency Transportation which deals with crises such as the Loma Prieta Earthquake, where we coordinated the activities from the Secretary's Representative in San

Francisco back here to Washington for the different Modal Administrators.

On the research side, we have the TSC which I mentioned earlier. It has about 540 professionals and really is on the cutting edge of the transportation research world. They receive no appropriations. They are completely self-funded, that hand-to-mouth existence means they have to be very responsive to their sponsor organizations.

Also on the research side, we have the Office of Aviation Information Management which provides airline statistics to the FAA and to the Office of the Secretary for policy decisions.

We also have an Office of Research and Technology, which deals with technology transfer to the private sector as well as supporting the R&D Council which I head. That council is made up of the Associate Administrators for Research and Development from each of the Modal Administrations.

PIPELINE SAFETY

My top priority this year is our Office of Pipeline Safety. We have a new aggressive management team in place. We have asked for nine new inspectors this year because we feel that it is very important that we beef up the staff. We must do a better job at our inspections and enforcement, and in areas where we have not been as active as we should have been.

We are also requesting an increase in state grants-in-aid to help the States run their pipeline programs in conjunction with us. We are asking for an increase of $671,000. We think that we need to keep the incentives going so that these states continue to help us because of our relatively small staff.

We will undertake a number of additional new rulemakings this year. We are looking at areas where we may have had gaps in jurisdiction and also as a result of any accidents that have taken place.

The other thing we are trying to do is to build better cooperative relationships with some of the other agencies that we get involved with on the pipeline side. For example, we deal with the Department of Interior in the offshore pipeline business, mostly in the Gulf of Mexico.

HAZARDOUS MATERIALS

On the HAZMAT side, we have asked for two additional inspectors. That office has roughly doubled in size over the past eight years so they have been adding a number of people each year. This year we feel that two additional inspectors are all we need on that side of the operation.

What I would like to do is to do for pipeline what my predecessor was able to do for hazardous materials in terms of gradually increasing the program and making it more effective. We have a number of important rules in the hazardous materials area dealing with incident reporting, with communicating hazards and with cargo tank trucks. We are now working on a performance-oriented approach to the hazardous materials regulations which is essentially a rewrite of 1500 pages of regulations.

RESEARCH AND TECHNOLOGY

On the research side, the Administration has taken a very strong position that we need to do more in research and development. The Secretary's National Transportation Policy will surely agree with that assessment. RSPA, because of its activities at TSC and back here in Washington, is well positioned to contribute to these goals.

There is one question that we would like to raise with you. It is our request that we be allowed some flexibility to try to enhance the federal land that surrounds the TSC up in Cambridge. Our intentions are to expand the TSC-related business there by having the contractors who work with TSC located on the site. So, we are looking at the possibility of private development of some of that land.

In closing, I would like to say, Mr. Chairman, we appreciate this opportunity to discuss the fiscal year 1991 RSPA budget. We look forward to working with you and with your subcommittee to improve RSPA's performance in the safety and research areas.

Mr. LEHMAN. Thank you for your statement. You have a very impressive biography and so do your staff. You do not have to be a Phi Beta Kappa to be on your staff, but it helps.

Mr. DUNGAN. We have done our level best to hire the absolute best people we can and we have been largely successful.

Mr. LEHMAN. And on your résumé, is that comma after President a typo?

Mr. DUNGAN. That is right.

Mr. LEHMAN. President, comma.

Mr. DUNGAN. Right. I am not sure who left out the comma there.

HAZARDOUS MATERIALS

Mr. LEHMAN. Mr. Dungan, two years ago this Committee requested RSPA to submit a feasibility study of field offices for hazardous materials enforcement. Last year your agency was directed to submit this report within one month of enactment of the fiscal year 1990 Transportation Appropriations Bill. This important report still has not been submitted. What and who is the problem?

Mr. DUNGAN. I have been involved with this for the ten months I have been there. Essentially, what has happened is we came up with a draft report. We ran it by the Budget Office in the Department and by OMB, informally, to see whether they thought we had addressed all the issues they asked us to address. Based upon the revisions and the suggestions that they made, we decided to revamp the report. We expect it to be out of the Department within 30 days and then over to OMB, and we really look forward to getting this thing over and done with.

FIELD OFFICE INSPECTIONS

Mr. LEHMAN. Last year, you advised us that three field offices would reduce the unit cost of inspections by over 40 percent. This would dramatically improve productivity and increase the number of inspections. Are these benefits still accurate?

Mr. DUNGAN. We are dealing with estimates here, but I would say it looks like for a marginal increase in outlays, we would be able to roughly increase by 50% the number of inspections that we could undertake. We feel it would be very cost effective.

Mr. **Lehman**. You save travel expenses, I suppose.

Mr. **Dungan**. A tremendous amount of travel expense. It creates a lot of wasted time when somebody has to go from Washington out to California and it takes two out of five work days to go and to come.

Mr. **Lehman**. Assuming that three regional offices were established, and the number of inspections were held constant, what cost savings would result and where would these offices be? Do you have any idea?

Mr. **Dungan**. At the request of OMB, we cut back the proposal to two regional offices located, one in the midwest, either Chicago or Houston; one in the west, located in Denver or Los Angeles. There is the possibility of having a separate East Coast office. We are debating whether to leave that here in Washington or whether to put it up in New Jersey where you have a great concentration of HAZMAT transportation.

Mr. **Lehman**. If these savings were re-invested to achieve more inspections, what type of inspections would you give the increased priority to?

Mr. **Dungan**. Well, we have a number of areas that are priorities. One is dealing with those materials that are extremely toxic by inhalation. That is an area, as well as explosive, that we are very concerned about.

We would probably also increase our inspection of the manufacturers for drums, cylinders and tanks, especially those that are manufactured under exemptions from us. Finally, we would probably devote some effort to looking at imported shipments at the ports of entry around the country.

Mr. **Lehman**. Why did you pick these?

Mr. **Dungan**. These are the things that we feel should be addressed over and above everything else that we do.

Mr. **Lehman**. Can you expand on that for the record, perhaps?

Mr. **Dungan**. We would be glad to.

HAZARDOUS MATERIAL STATISTICS

Mr. **Lehman**. Please also include a fiscal year 1991 budget update of the travel time statistics and HAZMAT inspection data found on pages 736 and 737 of last year's hearing record.

[The information follows:]

HAZARDOUS MATERIALS--TRAVEL COSTS AND INSPECTOR DAYS

Fiscal Year	OHMT inspection costs	Days per month per inspector	Total OHMT travel
1988	87,406	5	216,300
1989	94,528	6	234,377
1990 *	115,000	6	225,000
1991 *	120,000	7	215,000

* Amounts shown are projections

HAZARDOUS MATERIALS INSPECTIONS

	1988	1989	Change	Population*
Corrugated fiberboard box manufacturers	7	3	-4	1,500
Cylinder manufacturers	15	16	+1	200
Cylinder retesters	67	107	+40	2,300
Drum reconditioners	6	11	+5	700
Exemption holders	6	19	+13	1,000
Fiber drum manufacturers	5	13	+8	100
Independent inspection agencies	3	2	-1	20
Joint agency inspections	13	11	-2	
Metal container manufacturers	17	39	+22	150
Other	111	68	-43	
Plastic container manufacturers	12	56	+44	350
Portable tank manufacturers	2	1	-1	50
Shipment observations:				
General	303	283	-20	
RAM	25	17	-8	
Shippers:				50,000
General	107	141	+34	
RAM	32	1	-31	
Total	731	788	+57	

* Estimated number of entities.

HAZARDOUS MATERIALS RULEMAKING

Mr. **Lehman**. Last year, you indicated a backlog in your hazardous materials rulemaking process. Has this backlog gotten better since then or worse?

Mr. **Dungan**. Rather than looking at it as a backlog, we like to look at it as a forward-looking operating plan for the next five years for the Agency. The way we approach our rulemaking is that we take the most important rulemakings, from a safety point of view, and we devote much of our staff time to pursuing those.

When we reach a comment period or another time where we need to stop work because we are waiting for input from the public or from industry, then we will start working on some of the lower priority rulemakings.

We would rather not look at it as a backlog, but rather as a long-term agenda for the Agency.

Mr. **Lehman**. Have you any schedule delays in the priority rulemakings ongoing last year and, if so, describe which are delayed and the length of delay?

Mr. **Dungan**. A couple of the rules that we got out during fiscal year 1989, one was dealing with cargo tank safety, the integrity of cargo tank trucks. We received quite a few requests for reconsideration and, therefore, have delayed the effective date until we can analyze all the comments.

As far as this year is concerned, our most important priority is a project that was begun quite awhile ago, and that is a total revamp of the HAZMAT regulations, going from a specification-oriented philosophy to a performance-oriented philosophy which we feel will give industry a lot more flexibility in the type of packaging that they use. It will also be consistent with what the United Nations plans on putting into effect on January 1, 1991.

HAZARDOUS MATERIALS NEW AUTHORIZATION

Mr. **Lehman**. What increase in the number of rulemaking dockets would you predict as a result of new hazardous materials authorizing legislation currently pending before the Congress? Does your fiscal year 1991 request assume any such workload increase?

Mr. **Dungan**. It does include a workload increase. The specific areas that we would be looking at would be the extension of our HAZMAT regulations to intra-state commerce. We would also get into rulemaking on highway routing, setting up guidelines for the States so they can determine highway routing within the State, and then providing them some guidelines on working with other States or adjacent States. And we would probably end up getting involved in resolution of disputes.

One of the other areas that would be very critical as far as rulemaking is concerned would be our safety permitting program. In our reauthorization, we have proposed a proactive safety permitting process which would apply to those carriers that deal in the most hazardous materials; explosives, radioactive material and those extremely toxic if inhaled.

HAZARDOUS MATERIALS RULEMAKING STATUS

Mr. **Lehman**. For the record, update the RSPA rulemaking status table found on pages 686–688 of last year's hearing record, and add any new rulemaking dockets begun since that time.

[The information follows:]

15a

RSPA RULEMAKING PROJECT STATUS

Updated Actions:

Rulemaking Project	Summary	Current Status
Requirements for Cargo Tanks (Docket HM-183, 183A)	Establishes new requirements for the manufacture, repair, requalification, retest, and maintenance for specification cargo tanks.	Final rule published 6/12/89. Effective date extended several times, current date is 6/12/90. Over 100 petitions for reconsideration received and are currently under review. Revised final rule expected mid-1990.
Emergency Response Communication Standards (Docket HM-126C)	Requires additional emergency response information on shipping papers and in transport vehicles transporting hazardous materials.	Final rule published 6/27/90. Correction and response to petitions for reconsideration published 1/10/90, effective date extended until 6/4/90. Two additional petitions for reconsideration under review. Action on additional petitions anticipated 4/90.
Training for Hazardous Materials Transportation (HM-126F)	Proposes to adopt training requirements for all persons involved in the transportation of hazardous materials.	NPRM published 7/89. Two public hearing held (Salt Lake City, Ut. and Washington, D.C.). Comment period closed 11/24/89. Over 90 comments received. Final action pending review of comments.

5b

Performance-oriented Packaging Standards (Docket HM-181)	Proposes to revise the classification system and develop performance packaging standards based on the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods.	ANPRM, 4/15/82. NPRM, 5/5/87. Revised NPRM published 11/6/87. Supplemental NPRM's addressing the proposed reclassification of anhydrous ammonia, 11/14/88 and 7/26/89. Comment period closed 1/30/90. Issues papers, evaluation of comments and regulatory drafting under way, draft final rule estimated 10/90.
Elevated Temperature Materials (HM-198A)	Proposes to regulate materials which pose a thermal hazard due to being transported at elevated temperatures.	NPRM published 9/21/89. Comment period extended until 2/20/90.
Data Collection and Reporting: Hazardous Materials Incident Reports (Docket HM-36B)	Modifies hazardous materials incident reporting requirements and incident report form.	Final rule published 6/19/89. Effective date 1/1/90.
Hazardous Substances (Dockets HM-145G and HM-145H)	Adds CERCLA hazardous substances to the hazardous materials regulations, as required by statute.	Docket HM-145G published 8/21/89, effective 10/13/89. Docket HM-145H (radioactivematerials) published 9/26/89, effective 10/31/89. Next action pending EPA's final rule on extremely hazardous substances.
Hazardous Materials in Intrastate Commerce (HM-200)	Proposes to extend the applicability of the HMR to the transportation of Hazardous Materials in wholly intrastate commerce.	ANPRM published 6/87. Comment period closed 9/87. Various HMTA reauthorization proposals pending. Issue paper under development.

15c

Passive Restraint Systems - Airbags (Docket HM-139H)	Proposes to amend the HMR to provide for shipment of airbags under regulations of general applicability, rather than under exemptions.	NPRM published 2/26/90. Comment period closes 4/12/90.
Direct Routing of Radioactive Materials (Docket HM-164C)	Proposes to require motor carriers of highway route quantities of radioactive materials to transport those materials using the most direct route from pick-up/delivery to designated route.	NPRM published 9/29/89. Comment period closed 12/28/89. Comments under review and issue paper being developed. Next action anticipated summer 1990.
Detection of Tank Car Defects (HM-201)	Proposes to require railroad tank car owners and repair facilities to inspect tank car tanks for cracks after repairs.	ANPRM published 12/87. Comment period closed 5/88. Awaiting FRA recommendations. for NPRM or supplemental ANPRM.

CABOOSELESS TRAIN ACCIDENTS

Mr. **Lehman**. The National Transportation Safety Board issued a number of recommendations for RSPA following its review of the freight train collision near Altoona, Iowa, in July 1988 in which two persons were killed. What were these recommendations and what actions have you taken to implement them?

Mr. **Dungan**. Well, we acted immediately by starting a rulemaking based upon the NTSB report. What happened is that we realized that the problem specified in that accident was not exclusively a problem of cabooseless trains. Rather it was a problem for all trains. We have had to broaden the scope of the rulemaking and we are planning on getting the advanced notice of proposed rulemaking out by March 15th, 1990.

Mr. **Lehman**. You said cabooseless trains. I do not see any trains with cabooses anymore.

Mr. **Dungan**. Maybe Al Roberts, Director of the Office of Hazardous Materials would like to address that.

Mr. **Lehman**. Not in Florida. I do not see them in Florida.

Mr. **Dungan**. You certainly do not. None on the Florida East Coast.

Mr. **Roberts**. Mr. Chairman, there are some railroad operations still using cabooses; but you are correct, they are gradually being phased out for the magic box at the end of the train. The issue we are looking at is the documentation on trains, whether they have cabooses or not. The issue raised by the NTSB related to cabooseless trains.

Mr. **Lehman**. I do not see how cabooses help to prevent these kinds of things anyhow; but we can talk about that later.

Mr. **Dungan**. We can add that for the record, if you would like. I am sorry. I said March 15th. I should have said May.

STATUS OF NTSB RECOMMENDATIONS

Mr. **Lehman**. A number of these recommendations require rulemaking. When will you realistically be able to satisfy NTSB's rulemaking concerns? You said May?

Mr. **Dungan**. We should have an Advance Notice of Proposed Rulemaking out by May 15th.

Mr. **Lehman**. Has FRA been taking a very long time to offer its comments?

Mr. **Dungan**. I believe they have been working with us.

Mr. **Roberts**. The FRA has been working with us on this issue, as well as a number of other issues involving tank car safety. And, frankly, on some of the tank car safety issues we gave priority over the issue of documentation on trains. We are working with the FRA on it.

It is easy for the NTSB to make the recommendation, but we are required to do the flexibility analysis and the paperwork reduction cost. We have to do a benefit cost analysis and these are the kinds of actions we are taking to see if we can justify the proposal for the documentation on trains.

Mr. **Lehman**. Is FRA just sort of dragging its feet on this thing? On their comments?

Mr. **Roberts**. No. We have been working with the FRA on it. For example, the same people that work with us on this issue are the ones that work with us on the tank car safety assessment report and there is only—and, also, another docket involving the retrofit of tank cars with head shields and thermal protection. All these issues are before us and we are working each one, but we move our priorities back and forth. Obviously, the thermal protection retrofit is a major safety initiative that we should be addressing as much as we are able.

Mr. **Lehman**. The NTSB recommended that regulations be promulgated to prevent hazardous materials rail cars from being positioned at the rear of cabooseless trains, in order to protect against rear-end collisions. In RSPA's March 1988 response, it indicated that an Advance Notice of Proposed Rulemaking would be issued. However, as of July 1989, 16 months later, no ANPRM has been issued. What is the problem here and what is the status of the rulemaking today?

Mr. **Roberts**. That is basically the same issue that I discussed earlier, Mr. Chairman. It is all combined.

Mr. **Dungan**. May 15th should be the date on that.

RSPA RESPONSE TO NTSB RECOMMENDATIONS

Mr. **Lehman**. Please expand on your answer for the record, including a list of the NTSB recommendations, RSPA's response, and planned dates to implement each recommendation.

[The information follows:]

The wording of the NTSB recommendation requested us to . . . "change the current railroad hazardous materials car placement regulations in CFR Part 174 Subpart D, to read "end of train" in lieu of "occupied caboose." Although the NTSB's recommendation has the appearance of a minor regulatory change, the issue is much broader since it is related to the overall car placement issue. For example, additional switching of individual hazardous material railcars in rail yards will be required which will result in some increase in the risks associated with railroad workers and the public. These additional risks were pointed out in a NTSB report on Railroad Yard Safety (NTSB/SIR-85-02). The NTSB discussed several large-scale rail yard accidents involving the handling of hazardous materials railcars. The FRA data base also discloses that approximately 45 percent of all rail accidents occur within rail yards.

RSPA and FRA are developing an ANPRM to address the risks associated with the handling and train placement of hazardous materials railcars on cabooseless trains. As we proceed our analyses will be based on a quantitative and qualitative risk assessment associated with the placement of all hazardous materials rail cars in trains.

There are two NTSB recommendations involving cabooseless trains, R-87-17 mentioned above and R-87-18 which deals with the location of consist lists on cabooseless trains. We expect to publish an NPRM before May 15, of this year. It will probably take 18 to 24 months from that date to a) publish a final rule, b) have NTSB analyze the rule versus the recommendation to determine if it is responsive and, c) make a judgement that the recommendation should be "Closed-Acceptable Action."

OFFSHORE PIPELINE REGULATIONS

Mr. **Lehman**. Mr. Coughlin.

Mr. **Coughlin**. Thank you, Mr. Chairman.

I certainly want to join in welcoming Mr. Dungan to the committee as RSPA Administrator. It is his first testimony here, and we appreciate you being here. I also want to welcome your Deputy, Doug Ham, who we remember from the days on the Public Works and Transportation Committee as well as serving my predecessor in the Congress, Dick Schweiker.

I have a question based on the striking of the exposed natural gas pipeline west of the Sabine Pass by the boat "Northumberland." During the investigation, the Assistant Director for Pipeline Safety Regulation said that the suggestion to strengthen guidelines governing the depth of the submerged pipelines were not followed because the procedures were too costly, and that less expensive buoys and navigational charts could help.

Could you discuss for a minute the policy of RSPA on the give and take between cost and efficiency where you have safety suggestions involved?

Mr. DUNGAN. This is a complicated issue that we are trying to deal with very quickly as the fishing industry gets ready to go out and fish out in the same places where these pipelines are located. Essentially, it is not a matter of cost quite as much as a matter of technology as far as figuring out whether these pipelines are actually still covered or buried to the extent that they were required to be when they were originally laid.

The only way of finding out that we know of whether or not a pipeline has become unburied is to have a diver go down there and literally grope along the pipeline to see if it is exposed. We have undertaken an effort with our Office of Research and Technology to try to see whether there is not some other technology that might be applicable here, possibly from the military, that would help the companies discover when these pipelines are exposed.

There are a number of other issues here that we have met with other government agencies. We have met with the Coast Guard, with NOAA, and with the U.S. Corps of Engineers trying to figure out a way to have a short term solution to the problem, whether we should use buoys or some sort of markers. We will work with those agencies to try to come up with something for this fishing season.

There is another part of the problem which is that the Coast Guard apparently does not at this time require that these fishing vessels carry maps and records. We have got to make sure that the pipelines are on all of the maps and records, and the people who are fishing in these areas carry the maps and charts and use them.

OFFSHORE PIPELINE CHARTS

Mr. COUGHLIN. Are these pipelines charted now?

Mr. DUNGAN. Some of them are, but some of them are not.

Mr. COUGHLIN. What criteria are there for charting a pipeline, what requirements are there?

Mr. DUNGAN. I think that I would ask George Tenley in the Pipeline Office to help me on that.

Mr. TENLEY. Mr. Coughlin, the meeting that we had with the joint agencies revealed some information that some of us did not have. Apparently the way it is done is that the Corps of Engineers, the Coast Guard, and other sources supply to the National Oceanic and Atmospheric Administration (NOAA) candidate obstructions to navigation that they would like to have charted.

NOAA has discretion in what obstructions actually show up on charts, and much of it depends, they say, upon resources and the nature of the obstruction. So you will not get all obstructions including pipelines on those charts merely because of the NOAA method of charting.

OFFSHORE PIPELINE RULEMAKING

Mr. **Coughlin**. You are engaging on a rulemaking on this now?

Mr. **Tenley**. The Pipeline Safety Reauthorization Act of 1988 required that we do an inventory and mapping rulemaking, and we are in the process of doing that rulemaking. That will certainly assist that current gap.

Mr. **Coughlin**. When do you expect the rulemaking to be completed?

Mr. **Tenley**. Well, the notice will go out on it hopefully at the beginning of the summer, and I would hope to be able to close it at the beginning of 1991.

ANHYDROUS AMMONIA REGULATIONS

Mr. **Coughlin**. Our Appropriations colleague, Congresswoman Virginia Smith, has had a special interest in your regulations to reclassify anhydrous ammonia as a poisonous gas. Since May of 1987, DOT has promoted a proposal to change the classification of the major most practical source of nitrogen fertilizer currently applied to U.S. crops. It has been safely used for more than forty years and constitutes more than fifty percent of the U.S. nitrogen fertilizer industry. Their comment period closed on the very day that we held hearings for RSPA last year.

What has happened in the interim?

Mr. **Dungan**. Well, it is a very large undertaking. This is HM-181, which is a total rewrite of all of the regulations, about 1500 pages of regulations. Essentially what happened is that the farming communities voiced during the comment period significant concern as did the Secretary of Agriculture that this reclassification of anhydrous ammonia would drastically increase their insurance expenses, and would also start to limit the availability of anhydrous ammonia which is very important to their nitrogen-based fertilizer.

Essentially, we reopened the issue so that we could get both sides to comment on that specific part of HM-181, and we received I think about two thousand comments. We are in the process of analyzing them now. We are going to do our level best to get the final HM-181 rulemaking out by the end of this calendar year.

AGRICULTURE SECRETARY POSITION ON ANHYDROUS AMMONIA

Mr. **Coughlin**. We are aware of former Agriculture Secretary Lyng's opinion on the issue.

Has Secretary Yeutter taken a position?

Mr. **Dungan**. Yes, he has. He essentially took the same position, and that was one of the reasons why we decided to reopen the issue on that subject.

Mr. **Coughlin**. Thank you, Mr. Chairman.

Mr. **Lehman**. Thank you, Mr. Coughlin.

Would you like to ask a few more questions until you have to leave? It is up to you.

Mr. COUGHLIN. I will be here through the morning session.

ADDITIONAL SAFETY INSPECTORS

Mr. LEHMAN. Then I will just start off. Maybe we will be able to finish by 1:00.

You are requesting two additional inspectors for fiscal year 1991, bringing your total force up to twenty-four. This force level was thirteen only three years ago.

Why do we need another increase, and how did you specifically arrive at two new positions?

Mr. DUNGAN. Essentially, what is reflected here is the change in my focus from hazardous materials being a serious problem area to looking at the Pipeline Safety Office as a serious problem area. We have almost doubled the staff in the HAZMAT office over the past eight years. I think that the number of inspectors have gone up by about 175 percent over the past couple of years, from 1986 to 1990.

We believe that with the very limited resources at our disposal we need the inspectors on the pipeline side a lot more seriously than we do on the hazardous material side. We have some very specific hazardous material responsibilities that we give to these two inspectors. And frankly, we would rather grow slowly and grow well than, to say, add forty inspectors at a time when we were not prepared to absorb them into the program.

Mr. LEHMAN. Your travel costs per inspector, how does that compare to fiscal year 1990?

Mr. DUNGAN. I believe that it was $11,000 that we projected for fiscal 1990, and we would project a slight inflationary increase for 1991.

NON-COMPLIANCE RATE FOR NON-RANDOM INSPECTIONS

Mr. LEHMAN. And the 40 to 60 percent noncompliance rate on non-random inspections, is this pretty high?

Mr. DUNGAN. Well, that is an interesting statistic, because it is the noncompliance rate for non-random test inspections. By non-random inspections, we mean those cases where somebody has called us up either from the industry or from the public and given us a hot line tip. We are finding that in 40 to 60 percent of the cases where we get those tips that we do find violations.

Another interesting question would be the percentage of compliance on a random basis, and we do not have that number at this time.

Mr. LEHMAN. When you have it, will you submit it for the record?

Mr. DUNGAN. We have to figure out how we are going to go about putting it together, but we would be glad to provide it to you.

[The information follows:]

It is difficult to determine a precise rate of compliance (or noncompliance) for any given year. This is due to the fact that enforcement actions initiated in a given year may be based on inspections conducted in the previous year. Put another way, a portion of the inspections performed in 1990 will lead to enforcement actions which will be initiated in 1991.

In order to come up with a statistic in this area, RSPA has simply taken the number of enforcement actions (civil penalty cases and warning letters) initiated in 1989 and dividend that number of inspections conducted. The overall rate of noncompliance for 1989 was about 30%. Conversely, the overall rate of compliance was about 70%.

There seems to be confusion about the terms "random" and "nonrandom" as used to identify the inspections performed by RSPA. By "random", we mean inspections in which the subject was chosen for reasons other than known or suspected noncompliance. Most of RSPA's inspections each year fall under this category. In 1989, the rate of compliance in these inspections was about 71%.

"Nonrandom" inspections are those which are scheduled because the subject is known or suspected to be in noncompliance. Most often these inspections are based on complaints. In 1989, the rate of compliance in these inspections was about 40%.

ANHYDROUS AMMONIA RULEMAKING

Mr. LEHMAN. Last year we had a significant discussion on your proposed reclassification of anhydrous ammonia from a nonflammable to a poisonous gas.

What is the status of this rulemaking today, and what is your schedule for the remainder of this year and through Fiscal Year 1991?

[The information follows:]

In July 1989, RSPA published a supplemental notice of proposed rulemaking proposing to retain the current classification of anhydrous ammonia as a nonflammable gas, rather than reclassify the material as a poisonous gas. In addition, the supplemental NPRM proposed an "INHALATION HAZARD" warning as a mechanism for enhanced hazard communication. The comment period was reopened until January 30, 1990, due to significant public interest. Final action should occur in FY 1991 following review, in FY 1990, of over 1500 public comments received in response to this rulemaking.

AGRICULTURE SECRETARY POSITION ON ANHYDROUS AMMONIA

Mr. LEHMAN. We are aware of former Agriculture Secretary Lyng's opinion on the issue.

Has Secretary Yeutter taken a position?

[The information follows:]

Agriculture Secretary Yeutter submitted a comment opposing the reclassification of anhydrous ammonia to a poisonous gas in June 1989. RSPA subsequently issued a supplemental notice of proposed rulemaking in July 1989 which proposes to retain the nonflammable gas classification for anhydrous ammonia, with addition of an "INHALATION HAZARD" warning as a mechanism for hazard communication. The Department of Agriculture submitted comments to the supplemental notice in October 1989 which express Agriculture's support of the RSPA proposal.

BACKHAULING OF CONSUMABLE GOODS

Mr. LEHMAN. The Congress is considering specific regulations on backhauling of food, drugs and other consumable items in the same containers used to haul hazardous materials or garbage. Would you describe the main provisions of each bill as reported by the Committee of jurisdiction and give your short opinion on the wisdom of such legislation. You may summarize this now but submit it in detail for the record.

Mr. DUNGAN. I think that it is probably better if we go for the record on each specific bill.

Mr. LEHMAN. In general.

Mr. DUNGAN. In general, this is an area where DOT feels a little bit like a fish out of water. We do not have any experience or expertise in the transportation of food or the safety of food. These are areas that traditionally have been the responsibility of the Food and Drug Administration as well as the U.S. Department of Agriculture. Obviously if this responsibility is delegated to us, we will have to staff up.

Mr. LEHMAN. What are we really talking about, what are you hauling out and what are you hauling back that is giving problems? Give me an example.

Mr. DUNGAN. An example would be a refrigerated truck that would be carrying food in Manhattan. There have been some cases reported where the same trucks are filled with solid waste or food waste. The trucks go back to drop them off into landfills in Pennsylvania or Ohio. What these bills get at are requirements about cleaning the trucks as well as requirements that would prohibit trucks that carry food.

Mr. LEHMAN. What is actually happening is that a wholesaler in Ohio is sending some food into New York to an institution and the institution dumps the stuff in the same truck to haul back to Ohio?

Mr. DUNGAN. I suppose that is possible. I do not know if it is that.

Mr. LEHMAN. Would the same thing apply to tanks that come in with milk or other food products, beer or anything else?

Mr. DUNGAN. That has been an issue. We at DOT are not familiar with a lot of cases of food contamination because of this. We do not have much documented evidence. I think that we have something like six different cases.

Mr. LEHMAN. We really do not know what the size of this problem is yet, do we?

Mr. DUNGAN. We really do not.

Mr. LEHMAN. For the record, can you give us any information that you may have?

Mr. DUNGAN. We would be glad to.

[The following information was provided for the record:]

U.S. Department
of Transportation

**Research and
Special Programs
Administration**

The Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

DEC 15 1989

The Honorable Porter Goss
House of Representatives
2000 Main Street
Suite 407
Ft. Myers, FL 33901

Dear Congressman Goss:

Thank you for your letter forwarding correspondence from your constituent, Mrs. Donna Oliver, who expressed concern regarding the backhauling of chemicals and garbage in the same vehicles used for food products. Mrs. Oliver's letter was referred to the Research and Special Programs Administration, the agency within the Department of Transportation responsible for the Hazardous Materials Regulations.

We share Mrs. Oliver's concern about the potential for contamination of food products when transported on vehicles which also carry chemicals or garbage. The issue is a public health concern that should be addressed by the agencies with the technical expertise and regulatory responsibility for such concerns, such as the Food and Drug Administration in the Department of Health and Human Services and the Department of Agriculture.

We have met with other Federal agencies examining this issue, and agreed that we need better public and industry awareness of this problem. We believe the best approach at this time is to identify the scope and extent of the problem and develop appropriate measures to address that problem.

Please call me if you have any questions.

Sincerely,

Travis P. Dungan

U.S. Department
of Transportation

**Research and
Special Programs
Administration**

The Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

JAN 18 1990

The Honorable Trent Lott
United States Senate
Washington, D.C. 20510

Dear Senator Lott:

Your letter to Environmental Protection Agency Administrator William Reilly, forwarding correspondence from your constituent, Ms. Victoria A. Rumrill, was referred to the Research and Special Programs Administration (RSPA). RSPA is the agency within the Department of Transportation responsible for the Hazardous Materials Regulations.

We share Ms. Rumrill's concern about the potential for contamination of food products when transported on vehicles which also carry chemicals. The issue is a public health concern that should be addressed by the agencies with the technical expertise and regulatory responsibility for such concerns, such as the Food and Drug Administration in the Department of Health and Human Services and the Department of Agriculture.

We have met with other Federal agencies examining this issue, and agreed that we need better public and industry awareness of this problem. We believe the best approach at this time is to identify the scope and extent of the problem and develop appropriate measures to address that problem.

Please call me if you have any questions.

Sincerely,

Travis P. Dungan

Travis P. Dungan

REGULATIONS ON TRANSPORTATION OF FOOD

Mr. **Lehman**. The primary concern here is obviously the contamination of food, drugs and related consumables.

What federal agencies have the legal jurisdiction to regulate the transportation of food?

[The information follows:]

The Food and Drug Administration within the Department of Health and Human Services has statutory authority under the Federal Food, Drug, and Cosmetics Act (21 U.S.C. § 301 *et seq.*), and the Department of Agriculture has authority under the Federal Meat Inspection Act (21 U.S.C. § 601 *et seq.*) to regulate the handling and transportation of food.

Mr. **Lehman**. If such legislation is enacted, what would its implementation cost DOT, and are those costs budgeted, and what is the estimated cost for the industry?

Mr. **Dungan**. We would definitely need additional resources not only in terms of people, but types of people. We do not have biochemists and the type of people who would get involved in food contamination. There would be significant additional costs to the Department. That is one reason why we believe that this issue properly belongs at the FDA or the USDA.

ENFORCEMENT OF FOOD REGULATIONS

Mr. **Lehman**. Presumably, enforcement of these provisions would require inspectors skilled in toxicology, pharmacology and biochemistry, as well as specialized laboratory facilities.

Does RSPA have such staff and laboratory facilities?

[The information follows:]

No, we do not. The Food and Drug Administration and the Department of Agriculture have the core expertise necessary to address this problem. Their technical knowledge, supported by a staff of experienced food safety experts, is unmatched throughout the Federal government.

DEPARTMENTAL POSITION ON BACKHAULING

Mr. **Lehman**. For the record, expand on your answers concerning the backhauling issue and provide a copy of the November 16, 1989 letter from the DOT General Counsel to the Chairman, House Energy and Commerce Committee which provided the departmental position on H.R. 3634.

[The information follows:]

The Department of Transportation endorses the objectives of the bills that have been introduced to ensure food safety, but we have reservations concerning the regulatory approach suggested in those legislative initiatives. We believe the existing statutory authority provided to the Food and Drug Administration and the Department of Agriculture is adequate to regulate the handling and transportation of food. These Federal agencies also have the technical expertise and regulatory experience, which the Department lacks, to address this issue. The Federal agencies with expertise should use their existing authority to work with industry to eliminate any practices that would jeopardize food safety, and the Department would be pleased to assist them in that effort. A copy of the November 16, 1989 letter follows:

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U.S. Department of Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 16 1989

The Honorable John D. Dingell
Chairman, Committee on Energy
and Commerce
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department of Transportation would like to present its views concerning H.R. 3634, a bill

> "Amending the Hazardous Materials Transportation Act with respect to vehicles used for transportation of food and other items intended for human consumption."

H.R. 3634 would require the Secretary of Transportation, in consultation with the Environmental Protection Agency (EPA) and the Department of Health and Human Services (HHS), to issue regulations within one year of enactment with respect to the isolation in transportation of hazardous materials, solid waste, and certain other commodities from food, food additives, drugs, devices, and cosmetics, and packages containing those items. The bill mandates that the regulations include broad prohibitions, under certain circumstances, on the transportation of food in any truck, trailer, vessel, container, or rail car previously used to transport any hazardous material, solid waste, or other commodity that the Secretary determines poses a threat to human health; standards for food transportation in such conveyances and containers, including standards for removal and disposal of all residue and decontamination; and marking requirements for such conveyances and containers.

Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press and during congressional hearings, of shipping food in trucks that previously contained garbage. Food should not be transported in a manner that poses a danger of contamination. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first.

A related study was conducted in 1987 by EPA under Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986, in consultation with the Department, to examine the joint use of vehicles for transportation of hazardous and nonhazardous materials. Although the 1987 study did not address the transportation of solid waste or the backhauling of food or municipal solid waste, it identified only six incidents involving contamination over a 30-year period in the United States, and concluded that "joint use of vehicles to transport hazardous and nonhazardous materials is not a significant problem."

The bill, moreover, is not limited to the issue of transporting food and solid waste in motor vehicles. Rather, it would mandate regulations broadly prohibiting the use of any truck, trailer, vessel, container, or rail car to transport food if that conveyance has ever been used to transport any hazardous material, solid waste, or other commodity. Prohibiting the use of the same vehicle to transport food and hazardous materials could seriously disrupt interstate commerce. For example, one of the Nation's largest carriers of specialty foodstuffs, United Parcel Service, is also one of the Nation's largest carriers of hazardous materials (based on revenue). Such carriers may be forced to choose between carrying food and hazardous materials, resulting in increased costs. Moreover, we should point out the potential for confusion since many food additives shipped in bulk, such as saccharin, adepic acid, and acetic acid, and many other commonly shipped products, such as nail polish and hair spray, are also regulated hazardous materials.

The Department's extensive packaging, labeling, placarding, and incident reporting requirements for hazardous materials are intended to protect the public against the risks inherent in the transportation of those materials, but we do not have the technical expertise or the statutory authority to regulate food safety. The specific problem of transporting food and solid waste in the same vehicle is a public health concern that should be addressed by the agency or agencies with the necessary expertise and regulatory responsibility for food safety, including the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in HHS. These agencies have existing authority under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and other statutes to regulate the handling and transportation of food. For these reasons, we cannot support H.R. 3634.

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The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Rosalind A Knapp (for)

Phillip D. Brady
General Counsel

FIRST RESPONDER TRAINING

Mr. **Lehman**. RSPA provides training to first responders, those individuals first on the scene of hazardous material accidents. According to information provided to the GAO, your focus is on law enforcement personnel. In 1988, you provided the first responder seminar training to 780 personnel out of a state and local response community which includes 500,000 law enforcement personnel. According to this data, you are training about one-tenth of one percent of the community annually.

How is such limited training worthwhile?

Mr. **Dungan**. We are trying to deal with this issue. When you are talking about the first responder community, it is a very large universe as you just mentioned. One of the ways that we have gone about approaching these groups is by producing videos which can be used by the State and local communities as well as teleconferencing activities.

Last year we had a teleconference in conjunction with FEMA, and we had 250,000 of first responders that participated in that teleconference. We will be having another teleconference in April of this year.

I might take this opportunity to just mention, and we have not come up with a formal Administration position yet, but it would be a comprehensive approach to emergency response that DOT, FEMA, EPA and OSHA over at Labor would do combined to try to give uniform training to the first responder community.

What we would do is put together a core curriculum that we would train the states and then we would have the states train the trainer.

Mr. **Lehman**. It sounds like politics when you go out and shake hands in front of a super market with two hundred people, and on television it shows to a thousand.

Mr. **Dungan**. Well, that is true.

Mr. **Lehman**. I just wonder if these conferences when you can only reach one-tenth of one percent are worth the effort when you can reach so many more by media.

Mr. **Dungan**. We are trying to head in that direction.

Al, did you want to add something?

Mr. **Roberts**. Yes, sir. I just thought that I would mention that of the 780 personnel that you mentioned, I believe the source of that information comes from a GAO study done for Congressman Gallo. This was training given as adjunct training in our compliance and enforcement course at the Transportation Safety Institute in Oklahoma City. It was not a training program which focused on emergency response training.

We pointed out to the GAO that we were providing this training, first responder training, to law enforcement personnel, mainly state troopers, as part of our compliance and enforcement training program. There was no intent on our part to imply that this was a major move into the emergency response training business on the part of RSPA.

TURNOVER RATE OF FIRST RESPONDERS

Mr. **Lehman**. Given an estimated annual turnover rate of 25 to 30 percent among the first responder community, does this even further minimize the practical impact of such training?

[The information follows:]

This question is related to the previous question, which dealt with training 780 personnel in compliance and enforcement of the Hazardous Materials Regulations. Emergency response awareness is included as part of the overall program. Because of the high turnover rate among the first responder community, it is particularly important that law enforcement personnel are aware of the specialized safety concerns of emergency responders. This helps to ensure that there will be proper communication in the event of an emergency.

MEDIA TRAINING FOR FIRST RESPONDERS

Mr. **Lehman**. RSPA also provides teleconference and videotape training for first responders.

Wouldn't this be most cost-effective than seminars?

[The information follows:]

Teleconferencing and videotape training are formats which are suitable as elements of a comprehensive training program, not as the exclusive approach utilized. These techniques are valuable for cognitive development, but are of little benefit in skill development. While techniques and recommended practices can be illustrated on video, there is still the very real need for instructor observation of skill deficiency, development or correction in emergency response training. Additionally, video programs present an absolutely standardized approach and do not allow for variations in emergency response systems found among different state and local agencies.

BUDGET DATA FOR FIRST RESPONDER TRAINING

Mr. **Lehman**. Expand on this issue for the record and provide budget data for such training for fiscal years 1989 through 1991.

[The information follows:]

In FY 89, RSPA spent $206,000 on emergency response teleconference production, videotape development and other response training materials; an estimated $125,000 in FY 90; and an estimated $340,000 in FY 91. In addition, the awareness program that was pilot tested in FY 88 is now being delivered to several hundred response personnel annually through an adjunct faculty program of the Transportation Safety Institute at an estimated cost to RSPA of $5,000.

HAZARDOUS MATERIALS REAUTHORIZATION

Mr. **Lehman**. This year the Hazardous Materials Transportation Act is up for reauthorization, and a number of bills are being drafted to address various aspects of the reauthorization.

Would you highlight the most important issues to be addressed in this reauthorization and then in detail expand on it for the record?

Mr. **Dungan**. Sure.

Mr. **Lehman**. Do you think that the bill will be passed this year?

Mr. **Dungan**. We would very much like for it to be passed, and we are making every effort to promote it. This issue of emergency response is something that was not addressed in our original reauthorization bill. Because there has been so much sentiment up here on the Hill regarding emergency response, we decided to put together a uniform Administration position in the hopes that that might add some impetus to pushing the legislation through.

Just to give you some brief highlights; What our reauthorization proposes is that we extend HAZMAT regulations that we enforce to intrastate transportation. As opposed to a registration system, we called for a safety permitting system. And that would qualify carriers so that they would be able to handle the most toxic materials, either explosives, radioactive materials, or extremely toxic by inhalation.

Mr. LEHMAN. Have you had hearings before Congressman Dingell's committee yet?

Mr. DUNGAN. We had one on July 16th.

Mr. LEHMAN. Mr. Coughlin.

NUMBER OF FIRST RESPONDERS TRAINED

Mr. COUGHLIN. How many first responders have you actually trained?

Mr. DUNGAN. In the various forums including teleconferencing and distribution of video materials, when you do it that way you start to lose count. But we would estimate that it is well in excess of 250,000 persons who have received the benefit of our teleconferencing and videotape presentations.

Mr. COUGHLIN. Thank you, Mr. Chairman.

TESTING OF FIRST RESPONDERS

Mr. LEHMAN. But they have not passed any tests?

Mr. DUNGAN. No, sir. This is in the emergency response community, and we would have no authority to administer such testing to them. That would be under Title I which is assigned to the Department of Labor and EPA.

HAZMAT LEGISLATION OF JURISDICTIONAL DISPUTES

Mr. LEHMAN. You are proposing authorizing legislation which would address jurisdictional disputes in the highway routing of hazardous materials. Obviously each state and locality will take the position of NIMBY, "not in my back yard." Yet we cannot have HAZMAT shippers stopping at each jurisdiction to negotiate entry.

What is your proposal, and what is the status of your rulemaking docket on highway routing?

Mr. DUNGAN. Well, we have tried to address this as opposed to just rulemaking in our reauthorization proposal. What we would do would be to have the Federal Government set up the guidelines by which the states would make their own decisions on the corridors in which they would like to have HAZMAT channeled through the state. We would then assume the states would work with the local communities to try to work that out among themselves.

We would set up those guidelines and then resolve any disputes between the states if those should come up. As far as the status of the rulemaking docket, we hope to have the Notice of Proposed Rulemaking out by July 1st of this year.

REGISTRATION OF HIGH RISK MATERIALS

Mr. LEHMAN. You also propose a registration program for high risk hazardous materials. Why is this necessary, and how will it work, and will it benefit safety?

Mr. **Dungan**. Well, in a way it is a response to the registration program, to the universal registration program that has been proposed by many different people. In a universal registration program, you gather a lot of information and we are not sure what the added value is. In the case of safety permitting, we would be examining the records as well as the training of those carriers that wish to carry the most hazardous materials.

HAZMAT SIGNS

Mr. **Lehman**. Let me just interrupt you if I may. All of us have followed the signs on hazardous materials.

Is this a voluntary sign that they put up, or do the states or you mandate that these signs be put on these trucks?

Mr. **Dungan**. They are part of our regulations right here at RSPA, and they are generally enforced by the state motor carrier bureau and the law enforcement agencies.

Mr. **Lehman**. If a truck was hauling hazardous materials and did not have a sign on it, they would be subject to arrest and fine?

Mr. **Dungan**. They would be fined. I am not a lawyer, so I cannot speak to arresting powers.

Mr. **Lehman**. If this is all well displayed, why do you have to have it registered also, is that not duplication?

Mr. **Dungan**. It is not duplication. It is an attempt to make sure that on the most dangerous materials that we have the best capable trucking companies handle them.

HAZMAT REGISTRATION PROPOSALS

Mr. **Lehman**. Please expand on your proposals for the record.

[The information follows:]

The proposed permitting program is necessary if RSPA is to ensure that hazardous materials which present either a high degree of risk or are of significant public concern are transported on the Nation's highways only under the control of motor carriers who have demonstrated that they can do so safely. The limited permitting program would serve to enhance RSPA's hazardous materials transportation program in six significant aspects. First, RSPA would have the name and address of any carrier transporting the specific materials. This information would enable RSPA and the States to focus inspections and enforcement of the regulations on these carriers. Second, it would ensure that these carriers are familiar with the regulatory obligations required for a permit. Third, since a permit would be a precondition to transporting certain extremely hazardous materials, as well as continuing operational authority, it would support concentrated inspection and enforcement and provide the strongest possible incentive for carriers to operate safely and in compliance with the regulations. Fourth, if a carrier does not operate in compliance with the regulations, the permit can be pulled and the carrier is then prohibited from transporting these materials. Fifth, the requirement that shippers use only permitted carriers for these shipments will ensure that shippers use responsible carriers, whose selection is based on their operating safely and in compliance with the regulations. Sixth, the permitting program would be an important complement to the recently enhanced motor carrier safety fitness program administered by the Federal Highway Administration.

H.R. 3520: RSPA REAUTHORIZATION BILL

Mr. **Lehman**. Congressman Lukens' bill, H.R. 3520, is that the reauthorization bill or is that another bill?

Mr. **Dungan**. That is his reauthorization bill, yes.

Mr. **Lehman**. It is one of them?

Mr. **Dungan**. Right.

Mr. LEHMAN. It also provides RSPA with forty more HAZMAT inspectors. As we have already mentioned, your inspector force has been growing at a stable rate for several years.

Are forty additional inspectors needed? You probably have answered this already.

Mr. DUNGAN. Obviously, any agency could absorb new resources. We have found it is easier to grow by smaller chunks so you can integrate the new people into the staff.

HAZMAT LEGISLATIVE PROPOSALS

Mr. LEHMAN. For the record, provide a listing of hazardous materials-related legislation pending before the 101st Congress, including the bill number and sponsor, committees of jurisdiction, a summary of its provisions, your view of the bill, and an assessment of any significant budgetary impacts.

[The information follows:]

The listing of hazardous materials legislation pending before the 101st Congress is attached. We have attached copies of those letters which we have transmitted to Congress concerning H.R. 2681, H.R. 3386, and H.R. 3634. With respect to the remainder of the bills, we are unable to provide views or an assessment of budgetary impacts because such reports must be cleared through the Administration, including the Office of Management and Budget, before they may be transmitted to Congress. Should we submit views on any other bills, we would be happy to provide a copy to the Committee.

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HAZARDOUS MATERIALS BILLS INTRODUCED IN THE 101st CONGRESS

HOUSE BILLS

1. H.R. 53 - Hazardous Materials Transportation Safety Amendments of 1989 - Cardiss Collins (D-IL) - Jan. 3, 1989.

2. H.R. 136 - A bill to require the Secretary of Transportation to issue regulations to assist in the designation of the safest routes for the transportation of hazardous materials - Cardiss Collins (D-IL) - Jan. 3, 1989.

3. H.R. 370 - A bill to direct the Office of Technology Assessment to conduct a study of the effects of the reclassification of anhydrous ammonia as a poisonous gas - Virginia Smith (R-NE) - Jan. 3, 1989.

4. H.R. 371 - A bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the HMTA - Virginia Smith (R-NE) - Jan. 3, 1989.

5. H.R. 506 - A bill to amend the HMTA to provide for the registration of hazardous materials carriers, to provide assistance in the routing of hazardous materials and in the training of personnel to deal with such materials - Henry Gonzalez (D-TX) - Jan. 19, 1989.

6. H.R. 584 - Hazardous Materials Transportation Information Amendments of 1989 - Dean Gallo (R-NJ) - Jan. 20, 1989.

7. H.R. 2234 - A bill requiring the development of hazardous materials emergency response procedures, prohibiting the transportation of hazardous materials in certain obsolete railroad tank cars, and requiring a study of railroad tank car design procedures - Tony Hall (D-OH) - May 4, 1989.

8. H.R. 2387 - Radioactive Materials Transportation Protection Act of 1989 - Bill Green (R-NY) - May 17, 1989.

9. H.R. 2549 - Comprehensive Hazardous Materials Transportation Safety Act of 1989 - Jack Buechner (R-MO) - June 6, 1989.

10. H.R. 2584 - A bill to amend the HMTA to improve safety with respect to the transportation of hazardous materials - Doug Applegate (D-OH) - June 8, 1989.

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11. H.R. 2681 - Food Contamination Prevention Act - Christopher Smith (R-NJ) - June 19, 1989.

12. H.R. 2875 - To amend the HMTA relating to transportation of hazardous materials in the vicinity of bodies of water which serve as sources of drinking water - James Traficant (D-OH) - July 12, 1989.

13. H.R. 3229 - A bill to amend the HMTA to authorize appropriations for fiscal years 1990 and 1991 (DOT bill) - Glenn Anderson (D-CA) - September 7, 1989.

14. H.R. 3386 - Safe Transportation of Food Act - William Clinger (R-PA) - October 2, 1989.

15. H.R. 3520 - Hazardous Materials Transportation Act Uniform Safety Amendments Act of 1989 - Thomas Luken (D-OH) - October 25, 1989.

16. H.R. 3587 - Benjamin Franklin Memorial Fire Service Bill of Rights Act - Curt Weldon (R-PA) - November 2, 1989. **[H.R. 4098 introduced 2/22/90 in lieu of H.R. 3587]**

17. H.R. 3588 - A bill to improve the safety of rail transportation of hazardous materials - Gerry Sikorski (D-MN) - November 3, 1989.

18. H.R. 3634 - A bill amending the HMTA with respect to vehicles used for transportation of food and other items intended for human consumption - Thomas Luken (D-OH) - November 9, 1989.

19. H.R. 3647 - Safe Transportation of Food Act of 1989 - Robert Borski (D-PA) - November 14, 1989.

20. H.R. 4074 - State Rail Safety Program Enhancement Act of 1990 - Bob Clement (D-TN) - February 22, 1990.

21. H.R. 4098 - Benjamin Franklin Memorial Fire Service Bill of Rights Act - Curt Weldon (R-PA) - February 22, 1990.

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SENATE BILLS

1. S. 581 - Hazardous Materials Rail Transportation Safety Act of 1989 - Arlen Specter (R-PA) - March 15, 1989
2. S. 728 - Hazardous Materials Transportation Amendments of 1989 - John Danforth (R-MO) - April 7, 1989.
3. S. 729 - Radioactive Materials Transportation Act of 1989 - Nancy Kassebaum (R-KS) - April 7, 1989.
4. S. 1751 - Safe Transportation of Food Act - Slade Gorton (R-WA) - October 12, 1989.
5. S. 1904 - Clean Food Transportation Act - Al Gore (D-TN) - November 17, 1989.

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MEASURE: H.R. 53

SPONSOR: Collins (D-IL)

BRIEF TITLE: Hazardous Materials Transportation Safety Amendments of 1989.

INTRODUCED: 01/03/89

COSPONSORS: 2

COMMITTEES: Energy and Commerce, Public Works and Transportation, Ways and Means

SUMMARY:

- Mandatory annual registration of shippers, carriers, container manufacturers and storage facilities, and maximum fee of $100.
- Grants for routing designations and parking sites under guidelines set by the Secretary.
- Emergency response trust fund - from gasoline, diesel and aviation fuel taxes and Leaking Underground Storage Tank Trust Fund.
- Grants for emergency response training and equipment - $80M - FY 90, $90M - FY 91, $100M - FY 92, 93, 94.
- Emergency response information regulations (24-hour telephone number and ERG)
- Secretary to develop criteria for certified training courses.
- Requires Secretary to report to Congress on exemption and regulatory docket backlog and staff needed to address.
- Deletes "knowingly" from civil penalty provision and requires minimum penalty of $500.
- Requires Secretary to regulate intrastate transportation, and authorizes phase-in over 4 years.
- Requires Secretary to conduct a flow study for certain hazardous materials and report to Congress.

- Requires Secretary to issue emergency response procedures for rail carriers.
- Prohibits use of pre-1971 tank cars unless they meet post-1971 standards.
- Requires Secretary to contract for study of tank car design by National Academy of Sciences.

MEASURE: H.R. 136

SPONSOR: Collins (D-IL)

OFFICIAL TITLE: A bill to require the Secretary of Transportation to issue regulations to assist in the designation of the safest routes for the transportation of hazardous materials.

INTRODUCED: 01/03/89

COSPONSORS: 2

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY:

- Requires the Secretary to issue regulations to assist in selection of the safest routes for non-nuclear hazardous materials.
- Regulations must prescribe a formula for analyzing risks, specify data to be considered, and require maintenance of certain data by carriers.

MEASURE:	H.R. 370
SPONSOR:	Smith (R-NE)
OFFICIAL TITLE:	A bill to direct the Office of Technology Assessment to conduct a study of the effects of the reclassification of anhydrous ammonia as a poisonous gas, to limit the authority of the Secretary of Transportation to take any action regarding such reclassification until after completion of such study, and for other purposes.
INTRODUCED:	01/03/89
COSPONSORS:	2
COMMITTEES:	Agriculture, Energy and Commerce, Public Works and Transportation

SUMMARY:

- Requires OTA to conduct study of effects of reclassification on agriculture, hazardous materials transportation, industrial uses of anhydrous ammonia, and industry, and report to Congress within 18 months after enactment.
- Prohibits Secretary from reclassifying until 90 days after OTA report is submitted to Congress, and must consider study in issuing any such rule.

ON JULY 26, 1989, RSPA PUBLISHED A SUPPLEMENTAL NPRM PROPOSING TO RETAIN THE EXISTING NONFLAMMABLE GAS CLASSIFICATION, WITH THE ADDITION OF AN INHALATION HAZARD MARKING.

MEASURE: H.R. 371

SPONSOR: Smith (R-NE)

OFFICIAL TITLE: A bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes.

INTRODUCED: 01/03/89

COSPONSORS: 71

COMMITTEES: Agriculture, Energy and Commerce, Public Works and Transportation

SUMMARY:

- o Requires Secretary of Agriculture to study effect of classification on agriculture and report to Congress within 12 months of enactment.
- o Prohibits Secretary from reclassifying until 180 days after Agriculture reports to Congress.

ON JULY 26, 1989, RSPA PUBLISHED A SUPPLEMENTAL NPRM PROPOSING TO RETAIN THE EXISTING NONFLAMMABLE GAS CLASSIFICATION WITH THE ADDITION OF AN INHALATION HAZARD MARKING.

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MEASURE: H.R. 506

SPONSOR: Gonzalez (D-TX)

OFFICIAL TITLE: A bill to amend the Hazardous Materials Transportation Act to provide for the registration of hazardous materials carriers, to provide assistance in the routing of hazardous materials and in the training of personnel to deal with such materials, and for other purposes.

INTRODUCED: 01/19/89

COSPONSORS: 8

COMMITTEES: Energy and Commerce, Public Works and Transportation, Ways and Means

SUMMARY:

- Authorizes registration requirement for each shipper to identify each carrier used.
- Prohibits persons required to register from transporting hazardous materials through a city, town, or other political subdivision with a population of 50,000 or more until notification is provided and the jurisdiction has designated a route for such shipment.
- Grants to localities for planning, training, and equipment, funded by a $.25/ton tax on persons required to be registered.

44K

MEASURE:	H.R. 584
SPONSOR:	Gallo (R-NJ)
BRIEF TITLE:	Hazardous Materials Transportation Information Act of 1989.
INTRODUCED:	01/20/89
COSPONSORS:	14
COMMITTEES:	Energy and Commerce, Public Works and Transportation

SUMMARY:

- o Requires the Secretary to conduct regional flow analysis to identify the hazardous materials shipped, the transportation corridors being used, and the location and frequency of incidents.
- o Secretary shall cooperate with carriers, shippers, State officials, and Federal agencies, and report to Congress within 1 year of enactment.

MEASURE: H.R. 2234

SPONSOR: Hall (D-OH)

OFFICIAL TITLE: A bill requiring the development of hazardous materials emergency response procedures, prohibiting the transportation of hazardous materials in certain obsolete railroad tank cars, and requiring a study of railroad tank car design procedures.

INTRODUCED: 05/04/89

COSPONSORS: 8

COMMITTEES: Energy and Commerce

SUMMARY:

- Requires Secretary to issue emergency response procedures for rail carriers (i.e., requiring written information to be carried on train and provided to local emergency personnel, and requiring train crew to assist local officials in an emergency).
- Prohibits use of tank cars unless they comply with standards imposed by the Secretary on new tank cars as of the date of enactment.
- Requires Secretary to contract with National Academy of Sciences to study tank car design process, and report to Congress within 1 year.

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MEASURE: H.R. 2387

SPONSOR: Green (R-NY)

BRIEF TITLE: Radioactive Materials Transportation Protection Act of 1989.

INTRODUCED: 05/17/89

COSPONSORS: 0

COMMITTEES: Public Works and Transportation

SUMMARY:

- Requires Secretary, within 180 days, to prepare Environmental Impact Statement considering the routes of travel for shipments of highway route controlled quantities of radioactive materials into or through a high-density metropolitan area, and make any changes in routing determined necessary.

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MEASURE: H.R. 2549

SPONSOR: Buechner (R-MO)

BRIEF TITLE: Comprehensive Hazardous Materials Transportation Safety Act of 1989. A bill to amend the Hazardous Materials Transportation Act to authorize grants for improving emergency response planning and training activities, to establish a hazardous materials transportation registration fee to fund such grants, and to provide for designation of hazardous materials transportation routes and permitting of hazardous materials motor carriers.

INTRODUCED: 06/06/89

COSPONSORS: 11

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY:

- Requires Secretary to regulate intrastate transportation.
- Preempts State or local regulation of certain subjects.
- Requires Secretary to issue highway routing standards, authorizes State and local jurisdictions to designate routes, and provides dispute resolution provision.
- Mandates registration of all shippers, carriers, container manufacturers and storage facilities, except farmers transporting ammonia and Federal agencies.
- Mandates payment of registration fee, to be collected in amounts not less than \$20M for FY 91, \$22M for FY 92, \$24M for FY 93, \$26M for FY 94, \$28M for FY 95, and \$30M for FY 94.
- Requires Secretary to issue training standards.
- Requires safety permits for motor carriers transporting certain materials.
- Deletes "knowingly" and imposes minimum penal~~ty of~~ \$1,000 (\$250 for employee).

- o Establishes preemption and waiver of preemption standards.
- o Requires Secretary to prohibit any motor carrier that receives an unsatisfactory safety rating from operating a motor vehicle transporting hazardous materials.
- o Grants for emergency response planning and training to state, local, and regional governments. Secretary may delegate grant administration to FEMA. Secretary to set standards for use of grants.
- o Requires Secretary to report to Congress on exemption and regulatory docket backlog, and staff needed to address.
- o Requires Secretary to issue emergency response procedures for rail carriers.
- o Requires Secretary to hire additional hazardous materials inspectors - 10 for FRA, 20 for FHWA, and 5 for RSPA.

MEASURE:	H.R. 2584
SPONSOR:	Applegate (D-OH)
OFFICIAL TITLE:	A bill to amend the Hazardous Materials Transportation Act to improve safety with respect to the transportation of hazardous materials.
INTRODUCED:	06/08/89
COSPONSORS:	139
COMMITTEES:	Energy and Commerce, Public Works and Transportation

SUMMARY:

- Mandates that Secretary issue regulations, within 180 days of enactment, to require each generator of hazardous materials to transmit a manifest for each shipment to a central reporting system.
- Requires the Secretary to enter into a contract with a central reporting system and data center to provide information to emergency responders.
- Data center may impose a fee on Federal agencies but no Federal funds may be appropriated for the reporting system and data center.
- Requires Secretary to conduct a flow study to identify routes and incidents so as to improve enforcement and emergency response capabilities, and report to Congress.
- Increases maximum civil penalty from $10,000 to $50,000; the maximum criminal penalty from $25,000 and 5 years to $250,000 and 10 years.
- Specifies detailed requirements for private entity maintaining the reporting system and data center.

MEASURE: H.R. 2681

SPONSOR: Smith (R-NJ)

BRIEF TITLE: Food Contamination Prevention Act.

INTRODUCED: 06/19/89

COSPONSORS: 27

COMMITTEES: Public Works and Transportation

SUMMARY:

- Amends the HMTA to require the Secretary, within 90 days and after consultation with EPA, to issue regulations prohibiting the transportation in commerce of hazardous materials or solid waste in any motor vehicle which is also used to transport any food, food additive, drug, cosmetic, or device, or any package containing those items.
- Authorizes civil penalties and provides specific relief against persons transporting or causing to be transported solid waste in violation of the Act or a regulation issued under the Act.

VIEWS LETTER PROVIDED TO CONGRESS ON SEPTEMBER 26, 1989.

CONGRESSMAN SMITH HAS SUBSEQUENTLY INTRODUCED H.R. 3430 TO AMEND THE SOLID WASTE DISPOSAL ACT TO REGULATE THE TRANSPORTATION ONLY OF SOLID WASTE AND FOOD BY PROHIBITING CERTAIN VEHICLES FROM TRANSPORTING BOTH.

MEASURE: H.R. 2875

SPONSOR: Traficant (D-OH)]

BRIEF TITLE: To amend the HMTA relating to transportation of hazardous materials in the vicinity of bodies of water which serve as sources of drinking water.

INTRODUCED: 7/12/89

COSPONSORS: 0

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY:

- o Requires the Secretary, within two years of enactment, to issue regulations:
  - for the safe transportation of hazardous materials in the vicinity of bodies of water which serve as drinking water sources, including requirements to prenotify and obtain approval of local law enforcement and emergency response officials.
  - prohibiting transportation of hazardous materials over any public highway which has been designated by an appropriate Federal or state official as hazardous based upon its design, configuration, or rate of accidents.
- o Provides civil penalties for violations of not less than $10,000 or more than $100,000.
- o Requires the Secretary to study and report to Congress, within one year of enactment, on methods to contain hazardous materials spills on bridges and on methods for responding to spills which are likely to contaminate water supplies.

MEASURE: H.R. 3229

SPONSOR: Anderson (D-CA)

BRIEF TITLE: A bill to amend the HMTA to authorize appropriations for fiscal years 1990 and 1991 (DOT bill), and for other purposes.

INTRODUCED: 9/7/89

COSPONSORS: 7

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY:

[Not Included]

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MEASURE: H.R. 3386

SPONSOR: Clinger (R-PA)

BRIEF TITLE: Safe Transportation of Food Act.
[Companion bill to S. 1751]

INTRODUCED: 10/2/89

REPORTED: 11/17/89 by the Public Works Committee

COSPONSORS: 56

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY OF BILL AS REPORTED:

- Prohibits use of a refrigerated motor vehicle to transport food if that vehicle has been used to transport solid waste, except categories of waste the Secretary determines do not make food unsafe.
- Prohibits, beginning 365 days after enactment, use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a nonfood product, except nonfood products the Secretary determines do not make food unsafe.
- Requires the Secretary to publish lists of acceptable solid waste, which shall include food packaging, and acceptable nonfood products.
- Prohibits use of a motor vehicle to transport asbestos or any infectious waste except in a motor vehicle used only to transport asbestos, infectious waste, or other products the Secretary determines are appropriate to be transported in a motor vehicle which transports asbestos or infectious waste or both. Secretary required to publish a list of such products.
- Provides for waivers of any provision of the Act or regulations issued under the Act with respect to any class of persons, motor vehicles, or food if the Secretary determines a waiver would not be contrary to the public interest.

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- Requires the Secretary, to initiate rulemaking within 30 days after enactment and issue regulations within 150 days of enactment to implement the provisions of the bill.

- Requires the Secretary to study and report to Congress within 180 days of enactment on measures:

  - in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation.

  - with respect to the transportation of food or other consumer products, or of solid waste or other nonfood products, or of both by motor vehicles (in addition to refrigerated motor vehicles and cargo tanks) necessary to assure that such food or consumer products are not made unsafe.

- Authorizes the Secretary to issue regulations based on the study and transmit them to Congress. The regulations are not to be effective until 90 days following their transmittal to Congress.

- Provides civil and criminal penalties for violations, and specific relief for imminent hazard.

- Provides for preemption of inconsistent State or political subdivision requirements, but the Secretary may waive preemption.

- Requires the Secretary, within one year and after consultation with State officials, to establish procedures to promote better coordination between Federal and State agencies with motor carrier safety authority with respect to implementing and enforcing the Act.

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MEASURE: H.R. 3520

SPONSOR: Luken (D-OH)

OFFICIAL TITLE: Hazardous Materials Transportation Act Uniform Safety Amendments Act of 1989.

INTRODUCED: 10/25/89

REPORTED: 1/31/90 by the Transportation and Hazardous Materials Subcommittee

COSPONSORS: 39

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY OF BILL AS REPORTED:

- Comprehensive bill containing provisions on preemption, highway routing, registration, permitting, rail transportation, emergency response communication standards, training for the hazardous materials industry, emergency response planning and training grants, rail transportation, food safety, additional inspectors, etc.

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MEASURE: H.R. 3587

SPONSOR: Weldon (R-PA)

SHORT TITLE: Benjamin Franklin Memorial Fire Service Bill of Rights Act.

INTRODUCED: 11/2/89

COSPONSORS: 255

COMMITTEES: Banking, Finance and Urban Affairs
Science, Space, and Technology

SUMMARY: [not included]

Superseded by H.R. 4098, introduced 2/22/90

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MEASURE: H.R. 3588

SPONSOR: Sikorski (D-MN)

OFFICIAL TITLE: A bill to improve the safety of rail transportation of hazardous materials, and for other purposes.

INTRODUCED: 11/03/89

COSPONSORS: 0

COMMITTEES: Energy and Commerce

SUMMARY:

- Requires each railroad to provide training for covered employees concerning hazardous materials transportation.
- Requires Secretary to make annual grants to collective bargaining representative of each craft of employees covered by the Act to assist in training such employees.
- Amends the HMTA to delete the word "knowingly" from the civil penalty section.
- Requires railroad tank cars classified as specification 105 and 111 to comply with DOT standards applicable to specification 112 and 114.
- Prohibits placement of a placarded tank car immediately next to another placarded tank car.
- Secretary, within 12 months of enactment, to issue rules requiring approximately equal weight distribution throughout a freight train containing hazardous materials.
- Requires both engineer and conductor of train carrying placarded hazardous materials to be furnished a document showing the position in the train of each car and showing tonnage profiles.
- Requires each tank car transporting liquids to be equipped with appropriate baffles in order to minimize sloshing.
- Secretary, within 12 months of enactment, to issue rules requiring a standard color coding of placarded tank cars carrying explosives, radioactive materials, poisons, compressed gases, flammable liquids, oxidizers, and corrosive materials.

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- Prohibits use of railroad tank car to transport hazardous materials after 20 years from the date of its construction.
- Requires all trains carrying hazardous materials to be equipped with protective clothing, respiratory equipment, and first aid kits for use in case of hazardous materials spill or train accident.
- Secretary required to inspect tank cars during the construction process to assure that the manufacturer complies with the applicable standards.

MEASURE: H.R. 3634

SPONSOR: Luken (D-OH)

OFFICIAL TITLE: A bill amending the Hazardous Materials Transportation Act with respect to vehicles used for transportation of food and other items intended for human consumption.

INTRODUCED: 11/9/89

REPORTED: 11/14/89 by the Hazardous Materials and Transportation Subcommittee

COSPONSORS: 17

COMMITTEES: Energy and Commerce, Public Works and Transportation

SUMMARY OF BILL AS REPORTED:

- Amends the HMTA to require the Secretary, in consultation with EPA and HHS, to issue regulations within one year of enactment, with respect to the isolation in transportation of hazardous materials, solid waste, and certain other commodities from food, food additives, drugs, devices, and cosmetics, and packages containing those items.

- The regulations shall --

  (1) prohibit the transportation of food, etc. in any truck, trailer, vessel, container, or rail car previously used to transport any hazardous material, solid waste, or other commodity the Secretary determines poses a threat to human health regardless of whether removal, disposal, or decontamination procedures are followed;

  (2) establish standards for transportation of food, etc. in any truck, trailer, vessel, container, or rail car that is also used to transport any hazardous material, solid waste, or other commodity the Secretary determines poses a threat to human health if proper removal, disposal, or decontamination procedures are not followed, including standards for the removal and disposal of all residue and the decontamination of such trucks, trailers, etc.;

  (3) prohibit the transportation of food, etc. in any truck or other conveyance previously used to transport any hazardous material, solid waste, or commodity described in paragraph (2) until all residue has been removed and the conveyance decontaminated in accordance with the standards issued under (2);

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(4) require any truck, trailer, etc. be marked to identify if it has been used to transport any material described in paragraph (1); or if it has been used to transport any material described in paragraph (2), and if so, the date of such transportation, date of residue removal and decontamination, location at which such procedures were performed, and the person responsible for performance.

- Requires the Secretary, after consultation with EPA and HHS, to issue regulations establishing criteria for the coverage of hazardous materials, solid wastes, and other commodities.

MEASURE: H.R. 3647

SPONSOR: Borski (R-PA)

TITLE: Safe Transportation of Food Act of 1989

INTRODUCED: 11/14/89

COSPONSORS: 1

COMMITTEES: Public Works and Transportation

SUMMARY:

- Prohibits, beginning 180 days after enactment (but Secretary may extend effective date to 270 days after enactment):
  - use of a refrigerated motor vehicle to transport food, if such vehicle has been used to transport solid waste (other than a type of solid waste identified and listed by the Secretary).
  - use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a nonfood product (other than a nonfood product listed by the Secretary).
  - use of a motor vehicle to provide transportation of asbestos or any infectious waste except in a motor vehicle which is used only to provide transportation of asbestos, infectious waste, and any other products the Secretary determines are appropriate to be transported with asbestos, infectious waste, or both.
- Prohibits, beginning 365 days after enactment:
  - use of a cargo tank to provide motor vehicle transportation unless such tank has been identified by a permanent marking as transporting only nonfood products or as transporting only food and listed nonfood products.
  - use of a cargo tank to transport food if the cargo tank is identified as one transporting only nonfood products.
  - use of a cargo tank to transport a nonfood product not included on a list if such cargo tank is identified as one transporting only food and listed nonfood products.

  - receiving any food or nonfood product transported in a cargo tank in violation of the foregoing prohibitions.

- Requires the Secretary to publish in the Federal Register lists of categories of solid waste and nonfood products which do not make food unsafe, and a list of products which can be transported in a motor vehicle which transports asbestos or infectious waste or both.

- Provides for waivers of any provision of the Act or regulations issued under the Act with respect to any class of persons, motor vehicles, or food if the Secretary determines a waiver would not be contrary to the public interest.

- Requires the Secretary to initiate rulemaking within 30 days after enactment and issue regulations within 150 days of enactment to implement the prohibitions and waiver provision.

- Requires the Secretary to study and report to Congress within 180 days of enactment on measures:

  - in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation.

  - with respect to the transportation of food or other consumer products, or of solid waste or other materials, or of both by other motor vehicles (in addition to refrigerated motor vehicles and cargo tanks) necessary to ensure that such food or other consumer products are not made unsafe.

- Authorizes the Secretary to issue regulations based on the study. Any such regulations shall be transmitted to Congress, and are not to be effective until 90 days following their transmittal to Congress.

- Provides civil and criminal penalties for violations, and specific relief for imminent hazard.

- Provides for preemption of inconsistent State or political subdivision requirements, but the Secretary may waive preemption.

- Requires Secretary, within one year of enactment and after consultation with appropriate state officials, to establish procedures to promote more effective coordination between Federal and state agencies with respect to implementation and enforcement of the Act.

MEASURE: H.R. 4074

SPONSOR: Clement (D-TN)

TITLE: State Rail Safety Program Enhancement Act of 1990

INTRODUCED: 2/22/90

COSPONSORS: 2

COMMITTEES: Energy and Commerce

SUMMARY:

- Amends the Federal Railroad Safety Act to require the Secretary, within 6 months of enactment, to issue regulations establishing program for training and certification of state inspectors.
- Certified state agencies could impose penalties on railroads for violations of Federal safety regulations, but states could not promulgate their own regulations or impose penalties in excess of the Federal penalty schedule.

MEASURE:	H.R. 4098
SPONSOR:	Weldon (R-PA)
TITLE:	Benjamin Franklin Memorial Fire Service Bill of Rights Act.
INTRODUCED:	2/22/90
COSPONSORS:	262
COMMITTEES:	Banking, Finance and Urban Affairs Science, Space and Technology

SUMMARY:

- o Provides grants to states for equipment for local fire services.

MEASURE: S. 581

SPONSOR: Specter (R-PA)

BRIEF TITLE: Hazardous Materials Rail Transportation Safety Act of 1989.

INTRODUCED: 03/15/89

COSPONSORS: 1

COMMITTEES: Commerce, Science and Transportation

SUMMARY:

- o Requires Secretary to issue regulations establishing emergency response procedures for rail carriers (written information on train, 24-hour telephone number, carry ERG).
- o Requires Secretary to issue criteria for training courses.
- o Grants for emergency response training, for maximum of 75 percent of cost of training program - $5M - FY 90, $10M - FY 91, $15M - FY 92, 93.
- o Secretary must issue regulations requiring inspection of trains at origin by trained, certified railroad inspector.
- o Requires Secretary to hire additional 35 inspectors for FRA, to focus on hazardous materials inspections, and hire an engineer.
- o Requires Secretary to contract with National Academy of Sciences to study railroad tank car design and report to Congress.
- o Prohibits willful removal or tampering with placard - $10,000 fine and 5 years.
- o Removes "knowingly", imposes $500 minimum civil penalty, and adds $20,000 maximum civil penalty for grossly negligent violation or pattern of violations.
- o Requires FRA to inspect railroad bridges and assess current condition.

MEASURE: S. 728

SPONSOR: Danforth (R-MO)

BRIEF TITLE: Hazardous Materials Transportation Amendments of 1989.

INTRODUCED: 04/07/89

COSPONSORS: 2

COMMITTEES: Commerce, Science and Transportation

SUMMARY:

- Mandates issuance of regulations requiring dedicated trains for rail shipments of high-level radioactive waste and spent fuel.
- Secretary required to issue standards for selection of shipping modes and routes for high-level waste and spent fuel.
- Secretary prohibited from allowing transportation of high-level waste and spent fuel except in NRC-certified packages, which NRC has tested.
- Requires Secretary to hire additional 20 inspectors in FY 90 (for RSPA, FRA, and FHWA) - to inspect trains carrying high-level waste and spent fuel at point of origin and other trains carrying radioactive materials.
- Requires safety permits for motor carriers of certain hazardous materials.
- Prohibits removal of placard from package until all hazardous materials are removed.
- Deletes "knowingly".
- Prohibits tampering with any marking, label, placard, description, or package.
- Requires Secretary to issue regulations making motor carrier safety ratings available to the public and prohibiting any motor carrier receiving an unsatisfactory rating from operating a commercial motor vehicle.

MEASURE: S. 729

SPONSOR: Kassebaum (R-KS)

BRIEF TITLE: Radioactive Materials Transportation Act of 1989.

INTRODUCED: 04/07/89

COSPONSORS: 2

COMMITTEES: Commerce, Science and Transportation

SUMMARY:

- Requires Secretary to hire 20 additional inspectors (for RSPA, FRA, and FHWA) to focus on radioactive materials transportation.
- Requires inspection of every high-level truck and rail shipment at point of origin, low-level shipments as possible, and tracks and major signals every 12 months.
- Deletes "knowingly" and imposes $500 minimum civil penalty.

MEASURE: S. 1751

SPONSOR: Gorton (R-WA)

BRIEF TITLE: Safe Transportation of Food Act.
[Companion bill to H.R. 3386]

INTRODUCED: 10/12/89

COSPONSORS: 9

COMMITTEES: Commerce, Science and Transportation

SUMMARY:

- o Prohibits, beginning 180 days after enactment:
  - use of a refrigerated motor vehicle to transport solid waste.
  - use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a hazardous material or hazardous waste.
- o Provides for waivers of any provision of the Act or regulations issued under the Act with respect to any class of persons, motor vehicles, solid waste or hazardous material, or food if the Secretary determines a waiver would not be contrary to the public interest.
- o Requires the Secretary, to initiate rulemaking within 30 days after enactment and issue regulations within 150 days of enactment to implement the prohibitions and waiver provision.
- o Requires the Secretary to study and report to Congress within 180 days of enactment on measures:
  - in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation.
  - with respect to the transportation of food, or of solid waste, hazardous materials, or other materials, or of both by motor vehicles (in addition to refrigerated motor vehicles and cargo tanks) necessary to assure that such food is not made unsafe.

- Requires the Secretary to issue regulations based on the study within 365 days of enactment and transmit them to Congress. The regulations are not to be effective until 90 days following their transmittal to Congress.
- Requires the Secretary to submit an annual report to Congress.
- Provides civil and criminal penalties for violations, and specific relief for imminent hazard.
- Provides for preemption of inconsistent State or political subdivision requirements, but the Secretary may waive preemption.

MEASURE: S. 1904

SPONSOR: Gore (D-TN)

BRIEF TITLE: Clean Food Transportation Act.

INTRODUCED: 11/17/89

COSPONSORS: 0

COMMITTEES: Commerce, Science and Transportation

SUMMARY:

- o Prohibits, beginning 180 days after enactment (but Secretary may extend effective date to 270 days after enactment):
  - use of a refrigerated motor vehicle to transport food, if such vehicle has been used to transport solid waste (other than a type of solid waste identified and listed by the Secretary).
  - use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a nonfood product (other than a nonfood product listed by the Secretary).
  - use of a motor vehicle to provide transportation of asbestos or any infectious waste except in a motor vehicle which is used only to provide transportation of asbestos, infectious waste, and any other nonfood products the Secretary determines are appropriate to be transported with asbestos, infectious waste, or both.
- o Prohibits, beginning 365 days after enactment:
  - use of a cargo tank to provide motor vehicle transportation unless such tank has been identified by a permanent marking as transporting only nonfood products or as transporting only food and listed nonfood products.
  - use of a cargo tank to transport food if the cargo tank is identified as one transporting only nonfood products.
  - use of a cargo tank to transport a nonfood product not included on a list if such cargo tank is identified as one transporting only food and listed nonfood products.

  - receiving any food or nonfood product transported in a cargo tank in violation of the foregoing prohibitions.

- Requires the Secretary to publish in the Federal Register lists of categories of solid waste and nonfood products which do not make food unsafe, and a list of nonfood products which can be transported in a motor vehicle which transports asbestos or infectious waste or both.

- Provides for waivers of any provision of the Act or regulations issued under the Act with respect to any class of persons, motor vehicles, or food if the Secretary determines a waiver would not be contrary to the public interest.

- Requires the Secretary to initiate rulemaking within 30 days after enactment and issue regulations within 150 days of enactment to implement the prohibitions and waiver provision.

- Requires the Secretary to study and report to Congress within 180 days of enactment on measures:

  - in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation.

  - with respect to the transportation of food or other consumer products, or of solid waste or other materials, or of both by other motor vehicles (in addition to refrigerated motor vehicles and cargo tanks) necessary to ensure that such food or other consumer products are not made unsafe.

- Authorizes the Secretary to issue regulations based on the study. Any such regulations shall be transmitted to Congress, and are not to be effective until 90 days following their transmittal to Congress.

- Secretary shall require all inspectors funded by MCSAP to receive, within 1 year of enactment and periodically thereafter, enforcement training including recognition of food adulteration problems, and procedures for securing the assistance of HHS, Dept. of Agriculture, and other appropriate Federal and state agencies.

- Provides civil and criminal penalties for violations, and specific relief for imminent hazard.

- Provides for preemption of inconsistent State or political subdivision requirements, but the Secretary may waive preemption.

- Requires Secretary, within one year of enactment and after consultation with appropriate state officials, to establish procedures to promote more effective coordination between Federal and state agencies with respect to implementation and enforcement of the Act.

U.S. Department of Transportation

General Counsel

400 Seventh St. S.W.
Washington D.C. 20590

SEP 26 1989

The Honorable Glenn M. Anderson
Chairman, Committee on Public Works
and Transportation
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department of Transportation (DOT) would like to take this opportunity to present its views concerning H.R. 2681, a bill

> "To amend the Hazardous Materials Transportation Act to require the Secretary of Transportation to issue regulations prohibiting the use of the same motor vehicle for the transportation of hazardous materials or solid waste and food, and for other purposes."

The bill would amend the Hazardous Materials Transportation Act (HMTA) to require the Secretary, after consultation with the Environmental Protection Agency (EPA), to promulgate regulations prohibiting the transportation in commerce of hazardous materials or solid waste in any motor vehicle which is also used to transport any food, food additive, drug, cosmetic, or device, or any package containing any food, food additive, drug, cosmetic, or device, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. The bill would also authorize civil penalties and specific relief against persons transporting hazardous materials or solid waste in violation of the HMTA or Federal regulations.

Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press, of shipping food in trucks that previously contained garbage. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first. A related study was conducted in 1987 by the EPA under Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986, in consultation with the Department, to examine the joint use of vehicles for transportation of hazardous and nonhazardous materials. Although the study did not address the transportation of solid waste, it identified only six incidents involving contamination over a 30-year period in the United States, and concluded that "joint use of vehicles to transport hazardous and nonhazardous materials is not a significant problem."

The bill, moreover, is not limited to this issue. Rather, it broadly prohibits use of the same motor vehicle for simultaneous or sequential shipments of any hazardous material or solid waste and any food, food additive, drug, cosmetic, or device, without regard to proper packaging, use of liners, cleaning of vehicles, or any other regulatory control or industry practice. Prohibiting the use of the same truck to transport food and hazardous materials could seriously disrupt interstate commerce. For example, one of the Nation's largest carriers of specialty foodstuffs, United Parcel Service, is also one of the Nation's largest carriers of hazardous materials (based on revenue). Such carriers may be forced to choose between carrying food and hazardous materials, resulting in increased costs. We should also point out the potential for confusion since many food additives, such as saccharin, adepic acid, and acetic acid, and many other commonly shipped products, such as nail polish and hair spray, are also regulated hazardous materials.

The Department's extensive packaging, labeling, placarding, and incident reporting requirements for hazardous materials are intended to protect the public against the risks inherent in the transportation of those materials, but we do not have the technical expertise or the statutory authority to regulate food safety. The specific problem that apparently prompted the legislation -- transporting food and solid waste in the same vehicle -- is a public health concern that should be addressed by the agency or agencies with the necessary expertise and regulatory responsibility for food safety, including the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in the Department of Health and Human Services. These agencies have existing authority under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and other statutes to regulate the handling and transportation of food.

At your Committee's recent Investigations and Oversight Subcommittee hearing, DOT joined a panel of Federal agencies, including USDA and FDA, to explain the scope of Federal regulatory authority over the joint use of trucks for transportation of food and solid waste. The panel further discussed efforts already under way to examine this practice including on-site inspections at food transportation terminals by the FDA and a public survey and information campaign by USDA. Initial investigations have not found evidence of food contamination.

DOT will continue to work with these other Federal agencies to determine the extent of the problem and to recommend an appropriate response. However, until more is known about this matter, we believe it would be premature to act on legislation. For this and the foregoing reasons, we cannot support H.R. 2681.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Phillip D. Brady
General Counsel

U.S. Department of Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 16 1989

The Honorable John D. Dingell
Chairman, Committee on Energy
  and Commerce
House of Representatives
Washington, DC   20515

Dear Mr. Chairman:

The Department of Transportation would like to present its views concerning H.R. 3634, a bill

> "Amending the Hazardous Materials Transportation Act with respect to vehicles used for transportation of food and other items intended for human consumption."

H.R. 3634 would require the Secretary of Transportation, in consultation with the Environmental Protection Agency (EPA) and the Department of Health and Human Services (HHS), to issue regulations within one year of enactment with respect to the isolation in transportation of hazardous materials, solid waste, and certain other commodities from food, food additives, drugs, devices, and cosmetics, and packages containing those items. The bill mandates that the regulations include broad prohibitions, under certain circumstances, on the transportation of food in any truck, trailer, vessel, container, or rail car previously used to transport any hazardous material, solid waste, or other commodity that the Secretary determines poses a threat to human health; standards for food transportation in such conveyances and containers, including standards for removal and disposal of all residue and decontamination; and marking requirements for such conveyances and containers.

Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press and during congressional hearings, of shipping food in trucks that previously contained garbage. Food should not be transported in a manner that poses a danger of contamination. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first.

A related study was conducted in 1987 by EPA under Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986, in consultation with the Department, to examine the joint use of vehicles for transportation of hazardous and nonhazardous materials. Although the 1987 study did not address the transportation of solid waste or the backhauling of food or municipal solid waste, it identified only six incidents involving contamination over a 30-year period in the United States, and concluded that "joint use of vehicles to transport hazardous and nonhazardous materials is not a significant problem."

The bill, moreover, is not limited to the issue of transporting food and solid waste in motor vehicles. Rather, it would mandate regulations broadly prohibiting the use of any truck, trailer, vessel, container, or rail car to transport food if that conveyance has ever been used to transport any hazardous material, solid waste, or other commodity. Prohibiting the use of the same vehicle to transport food and hazardous materials could seriously disrupt interstate commerce. For example, one of the Nation's largest carriers of specialty foodstuffs, United Parcel Service, is also one of the Nation's largest carriers of hazardous materials (based on revenue). Such carriers may be forced to choose between carrying food and hazardous materials, resulting in increased costs. Moreover, we should point out the potential for confusion since many food additives shipped in bulk, such as saccharin, adepic acid, and acetic acid, and many other commonly shipped products, such as nail polish and hair spray, are also regulated hazardous materials.

The Department's extensive packaging, labeling, placarding, and incident reporting requirements for hazardous materials are intended to protect the public against the risks inherent in the transportation of those materials, but we do not have the technical expertise or the statutory authority to regulate food safety. The specific problem of transporting food and solid waste in the same vehicle is a public health concern that should be addressed by the agency or agencies with the necessary expertise and regulatory responsibility for food safety, including the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in HHS. These agencies have existing authority under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and other statutes to regulate the handling and transportation of food. For these reasons, we cannot support H.R. 3634.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Rosalind A Knapp (for)

Phillip D. Brady
General Counsel

U.S. Department of
Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 16 1989

The Honorable Glenn M. Anderson
Chairman, Committee on Public Works
and Transportation
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department of Transportation would like to take this opportunity to present its views concerning H.R. 3386, a bill

> "To prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes."

The bill would prohibit, beginning 180 days after enactment, the use of a refrigerated motor vehicle to transport solid waste and the use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a hazardous material or a hazardous waste. The bill would, however, authorize the Secretary of Transportation to grant waivers with respect to any class of persons, motor vehicles, solid waste, hazardous materials, or food if the Secretary determines such waiver is not contrary to the public interest. The Secretary would be required to issue regulations to carry out the objectives of the legislation within 150 days after enactment.

The bill would further require the Secretary, within 180 days of enactment, to study and report to Congress on measures (1) in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation, and (2) with respect to the transportation of food, solid waste, hazardous materials, or other materials, or of both by other motor vehicles necessary to assure that such food is not made unsafe. The Secretary would be required to issue regulations on the basis of the results of the study within one year following enactment. The bill would also authorize civil and criminal penalties against persons knowingly committing an act in violation of the Act or a regulation issued under the Act.

Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press and during congressional hearings, of shipping food in trucks that previously contained garbage. Food should not be transported in a manner that poses a danger of contamination. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first. A related study was conducted in 1987 by the Environmental Protection Agency under Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986, in consultation with the Department, to examine the joint use of vehicles for transportation of hazardous and nonhazardous materials. Although the 1987 study did not address the transportation of solid waste or the backhauling of food or municipal solid waste, it identified only six incidents involving contamination over a 30-year period in the United States, and concluded that "joint use of vehicles to transport hazardous and nonhazardous materials is not a significant problem."

The bill, moreover, is not limited to the issue of transporting food and solid waste in refrigerated motor vehicles. Rather, it prohibits use of a cargo tank to transport food if that tank has ever been used to transport any hazardous material or hazardous waste, without regard to proper packaging, use of liners, cleaning of vehicles, or any other regulatory control or industry practice. Many food additives, such as saccharin, adepic acid, and acetic acid, are also regulated hazardous materials that are transported in bulk by cargo tank.

The Department's extensive packaging, labeling, placarding, and incident reporting requirements for hazardous materials are intended to protect the public against the risks inherent in the transportation of those materials, but we do not have the technical expertise or the statutory authority to regulate food safety. The specific problem of transporting food and solid waste in the same vehicle is a public health concern that should be addressed by the agency or agencies with the necessary expertise and regulatory responsibility for food safety, including the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in the Department of Health and Human Services. These agencies have existing authority under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and other statutes to regulate the handling and transportation of food.

efforts already under way to examine this practice including on-site inspections at food transportation terminals by the FDA and a public survey and information campaign by USDA. Initial investigations have not found evidence of food contamination.

DOT will continue to work with these other Federal agencies to determine the extent of the problem and to recommend an appropriate response. However, until more is known about this matter, we believe it would be premature to act on legislation. For this and the foregoing reasons, we cannot support H.R. 2681.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Phillip D. Brady
General Counsel

U.S. Department of Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 16 1989

The Honorable John D. Dingell
Chairman, Committee on Energy
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Washington, DC 20515

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Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press and during congressional hearings, of shipping food in trucks that previously contained garbage. Food should not be transported in a manner that poses a danger of contamination. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first.

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The bill, moreover, is not limited to the issue of transporting food and solid waste in motor vehicles. Rather, it would mandate regulations broadly prohibiting the use of any truck, trailer, vessel, container, or rail car to transport food if that conveyance has ever been used to transport any hazardous material, solid waste, or other commodity. Prohibiting the use of the same vehicle to transport food and hazardous materials could seriously disrupt interstate commerce. For example, one of the Nation's largest carriers of specialty foodstuffs, United Parcel Service, is also one of the Nation's largest carriers of hazardous materials (based on revenue). Such carriers may be forced to choose between carrying food and hazardous materials, resulting in increased costs. Moreover, we should point out the potential for confusion since many food additives shipped in bulk, such as saccharin, adepic acid, and acetic acid, and many other commonly shipped products, such as nail polish and hair spray, are also regulated hazardous materials.

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The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Rosalind A Knapp (for)

Phillip D. Brady
General Counsel

U.S. Department of
Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 16 1989

The Honorable Glenn M. Anderson
Chairman, Committee on Public Works
and Transportation
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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> "To prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes."

The bill would prohibit, beginning 180 days after enactment, the use of a refrigerated motor vehicle to transport solid waste and the use of a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a hazardous material or a hazardous waste. The bill would, however, authorize the Secretary of Transportation to grant waivers with respect to any class of persons, motor vehicles, solid waste, hazardous materials, or food if the Secretary determines such waiver is not contrary to the public interest. The Secretary would be required to issue regulations to carry out the objectives of the legislation within 150 days after enactment.

The bill would further require the Secretary, within 180 days of enactment, to study and report to Congress on measures (1) in addition to the prohibitions, necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation, and (2) with respect to the transportation of food, solid waste, hazardous materials, or other materials, or of both by other motor vehicles necessary to assure that such food is not made unsafe. The Secretary would be required to issue regulations on the basis of the results of the study within one year following enactment. The bill would also authorize civil and criminal penalties against persons knowingly committing an act in violation of the Act or a regulation issued under the Act.

Although we are aware of the concerns which prompted introduction of the bill, we do not believe legislation is necessary at this time. This bill appears to have been initiated to address the practice, as reported in the press and during congressional hearings, of shipping food in trucks that previously contained garbage. Food should not be transported in a manner that poses a danger of contamination. An uncontaminated food supply is a primary health concern, but the scope and extent of any problem should be determined first. A related study was conducted in 1987 by the Environmental Protection Agency under Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986, in consultation with the Department, to examine the joint use of vehicles for transportation of hazardous and nonhazardous materials. Although the 1987 study did not address the transportation of solid waste or the backhauling of food or municipal solid waste, it identified only six incidents involving contamination over a 30-year period in the United States, and concluded that "joint use of vehicles to transport hazardous and nonhazardous materials is not a significant problem."

The bill, moreover, is not limited to the issue of transporting food and solid waste in refrigerated motor vehicles. Rather, it prohibits use of a cargo tank to transport food if that tank has ever been used to transport any hazardous material or hazardous waste, without regard to proper packaging, use of liners, cleaning of vehicles, or any other regulatory control or industry practice. Many food additives, such as saccharin, adepic acid, and acetic acid, are also regulated hazardous materials that are transported in bulk by cargo tank.

The Department's extensive packaging, labeling, placarding, and incident reporting requirements for hazardous materials are intended to protect the public against the risks inherent in the transportation of those materials, but we do not have the technical expertise or the statutory authority to regulate food safety. The specific problem of transporting food and solid waste in the same vehicle is a public health concern that should be addressed by the agency or agencies with the necessary expertise and regulatory responsibility for food safety, including the Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in the Department of Health and Human Services. These agencies have existing authority under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and other statutes to regulate the handling and transportation of food.

At your Committee's recent Investigations and Oversight Subcommittee hearing, the Department joined a panel of Federal agencies, including USDA and FDA, to explain the scope of Federal regulatory authority over the joint use of trucks for transportation of food and solid waste. The panel further discussed efforts already under way to examine this practice, including on-site inspections at food transportation terminals by the FDA and an information campaign by USDA. Initial investigations have not found evidence of food contamination.

The Department will continue to work with these other Federal agencies to determine the extent of the problem and to recommend an appropriate response. However, until more is known about this matter, we believe it would be premature to act on legislation. For these reasons, we cannot support H.R. 3386.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to submission of these views for the consideration of the Committee.

Sincerely,

Rosalind A. Knapp

Phillip D. Brady
General Counsel

HAZARDOUS WASTE DUMPING IN OIL PIPELINES

Mr. **Lehman**. Mr. Dungan, some of my colleagues are becoming increasingly concerned about the dumping of hazardous wastes into oil pipelines. Has the department reviewed this issue, and what are your conclusions and recommendations?

Mr. **Dungan**. We have not been able, either on the pipeline side or on the hazardous materials side, to document any cases of this happening. I would like to find out who we could contact to give us a lead so that we could try to track this down.

Obviously, there must be a problem out there, but we have not been able to identify it.

Mr. **Lehman**. Congressman Inhofe has a bill of legislation proposed on this.

Mr. **Dungan**. Yes.

Mr. **Lehman**. I am not familiar with the oil pipeline. If I wanted to dump something into the oil pipeline, how would I would go about doing it?

Mr. **Dungan**. Well, that is a good question, and one of the things I have heard is that this may be happening to abandoned pipelines.

Mr. **Lehman**. Oh.

Mr. **Dungan**. Pipelines that are not being used.

Mr. **Lehman**. For the record, give us some information on this.

Mr. **Dungan**. We will contact Congressman Inhofe and see where he is getting his information.

Mr. **Lehman**. Fine.

Mr. **Dungan**. We will find out where the problem is.

[The information follows:]

RSPA's Office of Pipeline Safety has not received any reports concerning pipeline operators dumping hazardous wastes into oil pipelines. We are aware of an incident in Tulsa, Oklahoma allegedly involving dumping of wastes into a tank(s) associated with a refinery and therefore not jurisdictional under the Hazardous Liquid Pipeline Safety Act.

RSPA is interested in receiving any information conerning the use of pipelines for dumping hazardous wastes. Any reports received will be investigated.

CHEMTREC DATABASE FOR EMERGENCY RESPONSE

Mr. **Lehman**. Last year, we discussed the adequacy of the CHEMTREC database to provide timely and accurate information to emergency responders at hazardous materials accidents. Some have suggested the development of a centrally-managed "real-time" database which would allow a better response. This debate surfaced again in the Washington area this past December after a HAZMAT accident on I–270. Tell us once again why you feel such a system would not be cost effective. What about a limited system to handle only the most high risk materials or the most accident-prone situations?

Mr. **Dungan**. I think this is the proposal that Congressman Applegate, or at least this qualifies what his program would call for. A real time system that would be tied into every police and firehouse would be extremely expensive. Approximately 500,000 shipments of hazardous materials take place every day, and those shipments are frequently interchanged with other modes of transportation, each of which would have to be documented in the system.

The estimates that we have heard from Congressman Applegate's particular system would cost anywhere between two and four billion.

Given that hazardous materials were responsible for 20 fatalities, I am not sure it makes sense to spend two to four billion dollars on a problem that seems to be handled adequately under the current system.

The other thing that I would point out is that I am not sure that the police and fire departments would know what to do with these massive computer printouts that would tell them what all the trucks are carrying through their town. I can see how commodity flow studies might be useful for the communities. That would be something that would tell them the types of materials that, in general, are going through their town. That would be useful because they could prepared to handle those particular materials. But having a real-time online system is, I think, not cost effective.

Mr. LEHMAN. Would you expand on this for the record?

Apparently you have more potential for inputting data than you have for extracting data other than by the people trained to understand what is coming out.

Mr. DUNGAN. We would be glad to do that.

[The information follows:]

The Department of Transportation (DOT), Research and Special Programs Administration (RSPA) is closely monitoring the technological and market evolution of mobile tracking and communications systems. We are currently investigating a wide variety of systems applications. However, all of the applications considered to date would impose inordinate cost burdens on commerce, without offering substantial safety paybacks. None of the applications considered would help drivers avoid hazardous materials incidents, or ensure appropriate response actions upon the occurrence of an incident. RSPA also shares concerns voiced by industry, that such systems could increase the likelihood of tragic on-scene mistakes. On-site personnel could be exposed to unnecessary risks caused by computers, communications, operators, or data entry errors.

Technical obstacles have also inhibited our recommending the mobile tracking and communications proposals presented to date. In order for such programs to be effective, a vast national computer network would have to be developed to tie more than 30,000 emergency response jurisdictions together.

Overall, the current hazard identification and communication system has an excellent record. Placards, markings, and shipping papers provide hazard communications, and the DOT Emergency Response Guidebook (ERG) gives prompt hazard-specific response information. Additional support is provided by CHEMTREC, which has access to industry experts, and provides 24 hour detailed response and mitigation information.

TANK CAR DESIGN SAFETY REPORT

Mr. LEHMAN. Approximately 80 percent of all hazardous material hauled by rail is carried in tank cars. Obviously, the design and construction of these tank cars is critical for safety reasons. Much of the oversight of tank car design and construction has been delegated to the tank car committee of the American Association of Railroads. Due to concerns over the increasing independence of the tank car committee and allegations of lax oversight, RSPA and the FRA began a joint review of this situation in 1986.

With some prodding from this Committee and the Senate Appropriations Committee, the report was finally completed last month. What did you conclude, and what is being done to resolve these problems?

Mr. Dungan. We have been working closely with the Federal Railroad Administration to come up with a position that would be acceptable to both RSPA and FRA, and the tank car report has now been completed.

Essentially, we want to make sure there is adequate oversight over the tank car committee of the AAR in enforcing HAZMAT regulations. What we plan on doing is auditing some of the situations that have come up to see whether the delegated authority is being handled responsively.

Mr. Lehman. Expand on your answer for the record, and include a copy of the transmittal letter and executive summary from this study.

[The information follows:]

The report recommends that DOT continue, on a provisional basis, policy formulation and delegations to the AAR; that DOT must be present at every meeting or proceeding conducted and have access to all files; and that the AAR must overhaul its recordkeeping. If further recommends that the number of votes for approval of an application be raised to a level ensuring broad participation by shippers and carriers; tht the shop certification program should be be reassessed and overhauled; that the TCC should develop a program foı periodic checks and methods for problem solving; and that the recommendations should be implemented now by regulatory action or written agreement between DOT and the Committee or a combination of both. FRA and RSPA will initiate methods by which to review the Committee's actions. Additionally, FRA will conduct a follow-up audit of the certification process and will direct its new Hazardous Materials Division to increase inspection of tank care manufacturing and repair facilities.

U.S. Department
of Transportation
**Federal Railroad
Administration**

Office of the Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

The Honorable William Lehman
Chairman, Subcommittee on Transportation
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

For some time, the Federal Railroad Administration (FRA) has been reassessing its relationship with the Tank Car Committee (Committee) of the Association of American Railroads (AAR), which through delegated authority provides the Department technical assistance with respect to tank car construction, modification, and repair.

As part of this process, FRA and the Research and Special Programs Administration (RSPA) formed a joint task force in 1986 to closely examine that relationship and the functioning of the Committee. The agencies were concerned by the increasingly independent functioning of the Committee, the difficulties that arose when FRA attempted to reassert its active role, and the adequacy of Committee record keeping.

The task force's report to us, a copy of which is enclosed, has provided valuable information and insights from which we have developed a joint plan of action to ensure the continued safe transportation of hazardous materials by railroad:

1. FRA and RSPA will meet with AAR officials promptly to review the report and its recommendations and request that AAR respond, within 60 days, with plans to comply with the recommendations.
2. FRA and RSPA will continue their oversight of Committee activities through attendance at Committee annual and semi-annual meetings and through more frequent headquarters audits of Committee records.
3. FRA will conduct a follow-up audit of the Committee to focus on the certification of tank car construction and repair facilities.
4. FRA and RSPA will increase their monitoring efforts to detect potential tank car failures or design flaws.

5. FRA will create, within the Office of Safety, a new Hazardous Materials Division. The core staff of the new division will come from the present Operating Practices Division and be augmented with two additional staff positions at headquarters and eight new hazardous materials specialist positions at the regional offices.

6. FRA's new Hazardous Materials Division will direct FRA inspectors to increase their monitoring at tank car manufacturing and repair facilities.

7. FRA and RSPA will (by agreement with AAR and/or regulation, as necessary) initiate actions to define more explicitly the Committee's exercise of the delegated functions:

   - to require that the Department have access to all meetings and proceedings and to all documents maintained with respect to the delegated authority;
   - to provide for DOT withdrawal or suspension of tank car construction and repair shop certifications;
   - to provide for appeals of Committee decisions to the Department; and
   - to require improved Committee record keeping.

8. FRA and RSPA will explore the possible need for and feasibility of adopting a system of third-party inspection of new and repaired tank cars.

FRA and RSPA believe that, as these eight points are implemented, tank car design and construction quality will improve, the frequency of out-of-specification tank car repair will drop, and the relationship between the Department and the Committee will improve, all of which will further enhance the excellent record compiled in recent years for the safe transportation of hazardous materials by rail.

Sincerely yours,

Gil Carmichael

Gilbert E. Carmichael
Administrator, FRA

Travis P. Dungan

Travis P. Dungan
Administrator, RSPA

Enclosure

IDENTICAL LETTER SENT TO:

The Honorable Robert C. Byrd

cc: The Honorable Jamie E. Whitten
The Honorable Silvio O. Conte
The Honorable Lawrence Coughlin

UNITED STATES
DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Research and Special Programs Administration

A Report on
TANK CARS:
Federal Oversight of Design, Construction, and Repair

EXECUTIVE SUMMARY

Under the Federal Railroad Safety Act of 1970, the Secretary of Transportation is directed to prescribe regulations "for all areas of railroad safety." The Hazardous Materials Transportation Act grants the Secretary authority to issue regulations which "govern any safety aspect of the transportation of hazardous materials."

As a consequence, DOT is responsible for regulating the design, construction, and repair of railroad tank cars. The Secretary has delegated implementation and enforcement of these acts and their regulations to the Research and Special Programs Administration (RSPA) and the Federal Railroad Administration (FRA).

Certain functions related to hazardous materials tank cars are, by regulatory delegation, vested in the Association of American Railroads Tank Car Committee (TCC). A task force consisting of FRA and RSPA staff has evaluated the implementation of that delegated authority. This report contains the assessment team's findings and its recommendations for corrective action to the RSPA and FRA Administrators.

The role of the Association of American Railroads Tank Car Committee as a resource for the development and implementation of safety regulations predates the creation of the Department of Transportation by more than 40 years. This inescapable fact of history gives context to both the benefits of and the problems with the current process of assuring that tank cars are being built and maintained in compliance with DOT regulations.

The first recommended practices for tank car construction appeared in 1903, promulgated by an industry group known as the "Master Car Builders Association." Those recommendations became industry standards in 1910 when they were accepted by the tank car manufacturers.

The Federal government intervened for the first time in 1927, when the Interstate Commerce Commission adopted a new set of standards drafted by ICC staff with considerable assistance from the American Railway Association's Committee on Tank Cars, a forerunner of the current TCC. The Commission's reliance on the Committee for development of the standards, and the Committee's role in executing them, were expressly sanctioned by the 1908 Explosives and Other Dangerous Articles Act. The relationship established by the Commission pursuant to that Act prevailed for 40 years and was assumed by the Department of Transportation when it succeeded to the Commission's role as safety regulator in 1967.

The relationship between the Department and the TCC can best be described as a relationship between a policymaker and a counselor. The Committee brings the Department technical expertise. It reviews the effectiveness of current standards and forwards recommendations for change. Proposed amendments to the tank car specifications originating outside the Committee must be referred to the Committee for review and comment prior to departmental action. In all instances, however, final policy judgments lie with the Department.

On the compliance side, the Committee's role is more significant; it has for 51 years played a quasi-governmental role as the implementation wing of, first, the ICC, and now, the Department of Transportation. The Department (like the ICC before it) continued to delegate authority to the Committee to review applications for construction or modification, and approve or deny them based on their consistency with DOT regulations. The Committee was also delegated authority, in more than one hundred individual subsections of the regulations, to approve fittings, attachments, materials, and procedures. The Committee has broad authority to implement DOT regulations on repair and retrofit; in addition, it certifies those facilities which are qualified to perform construction/repair services.

Late in 1983, the Federal Railroad Administration began to reassess the Department's relationship with the TCC. Somewhat thereafter, FRA and the Research and Special Programs Administration agreed to form a joint task force to assess the functioning of the Committee and the policy premises behind its long standing relationship with government regulatory agencies. That assessment was prompted by three considerations:

- A concern by the Administrators of the two agencies that, while the structure of the relationship between the Department and the Committee had not changed, a significant gulf had, in practice, developed between them, resulting in the TCC functioning independently of

-- rather than as an extension of -- the Department.

- The friction that arose when FRA attempted to reassert its role as an active participant in Committee deliberations.
- A general concern about the adequacy of TCC record keeping.

Shortly after the decision to reassess the relationship was made, the Department's concerns were intensified by the discovery of an error made by the Committee in approving the construction of a tank car with fittings welded directly to the shell in violation of DOT regulations. That error resulted in FRA's ordering the recall and retrofit of more than 10,000 tank cars.

The assessment team was comprised of representatives from the FRA and RSPA. The National Transportation Safety Board was invited to participate in the assessment but declined to do so for the most part. NTSB participation was limited to the attendance of one staff member at part of an Association of American Railroads introductory session and at the subsequent interview of a former TCC official.

This document summarizes the assessment team's findings and their recommendations to the FRA and RSPA Administrators.

SUMMARY OF FINDINGS

The Concept of Delegation:

The policies that led the ICC to adopt the original TCC delegation remain valid. In its role as policy advisor, the Committee gives the Department access to a level of experience and expertise that does not exist within the Department, and could not easily be duplicated in a governmental agency. In its implementation role, the Committee gives the Department -- at no cost to government -- a cadre of experienced personnel to sustain the burden of reviewing drawings, certifying facilities, and maintaining records. As a consequence, in addition to providing Federal agencies with expertise, the delegation conserves public resources for application to other safety sensitive areas.

We find the concept of utilizing the Committee as an extension of the regulatory agency to be sound; what is not sound is the manner in which the delegation is now being implemented.

This report recommends ways to improve implementation of that delegated authority. If improvements are not made, or if they prove insufficient, this report leaves open the door to other approaches to ensuring that tank cars are built, repaired, and maintained in accordance with the Department of Transportation's regulations.

The Committee's Performance:

From a bottom-line results perspective, the performance of the Committee over time is difficult to criticize. The Committee has served as policy counselor to the Department through a period in which there has been intense activity on many fronts and a marked improvement in railroad hazardous materials transportation safety. There has not been a fatality in a chemical release in nearly a decade -- a sharp contrast to the one year high of 22 established in 1979. Studies done for the AAR and the Railway Progress Institute conclude that since 1980 the regulatory changes adopted by the Department -- with TCC guidance -- have resulted in a 68 percent reduction in fire related tank failures and an 81 percent reduction in impact failures. Over the same period, the Committee has, in its administrative capacity, reviewed and processed more than 3,500 applications for alteration or new construction.

The assessment found little to criticize in the Committee's performance of its policy counselor role. But on the implementation side, notwithstanding the quantifiable progress resulting from its efforts, the Committee has made mistakes. The assessment identified approximately a half dozen cases in which the Committee violated either its own procedural standards or DOT substantive regulations in granting approval for construction or modification. At least one of those errors was significant, resulting in the recall and retrofit of more than 10,000 tank cars.

The assessment team analyzed the errors it found and we reached the conclusion that they stemmed more from human judgments than from any factor inherent in the structure of the Committee. However, the chance of error is materially enhanced by the Committee's poor record keeping and less than rigorous adherence to its own procedural requirements. We likewise found that the unacceptable distance that has developed between TCC proceedings and DOT oversight has increased the probability that an error, once made, will escape detection.

DOT Oversight:

From the issuance of the ICC's initial specifications in 1927 until the creation of the Department of Transportation in

1967, the relationship between the Federal government and the TCC remained basically unchanged. The ICC construed the language of the Explosives Act literally and turned tank car activity over to the Bureau of Explosives and the TCC. However, the ICC was represented at both Committee and subcommittee meetings; its delegate was not a voting member of the Committee, but did participate in the review of matters within the scope of the delegation. This observer status was consistent with the nature and objectives of the delegation; it respected the distinction between rulemaker and advisor while ensuring that the ICC remained informed of and involved in the Committee's deliberations.

With the transfer of safety jurisdiction from the ICC to the DOT, an DOT representative replaced the ICC delegate as a member of the TCC and participated in much the same way as his ICC predecessor. For reasons that are not entirely clear, the relationship between DOT and the TCC began to deteriorate in the late 1970's, and that deterioration escalated in the period 1980 to 1983. The Committee barred DOT representatives from all TCC deliberations other than "open sessions." It did not provide DOT with regular notice of matters discussed during closed deliberations, even when those matters fell within the scope of the delegation. DOT was denied the right to review TCC files and was permitted to receive file documents only upon special request for specific documents. While these changes occurred gradually over a period of years, the Department did not challenge them.

When, in late 1983, FRA sought to reassert its oversight role and resume direct review of tank car issues, the Committee resisted. It continued to bar FRA representatives from other than open sessions and refused to routinely provide DOT with copies of documents unless specifically requested to do so. It was this conduct that precipitated the decision by the FRA and RSPA Administrators to order this audit.

The growing separation between the Department and the Committee was more an evolution than a single, cathartic event; it occurred because the Department became increasingly passive in asserting its oversight role and because the members of the Committee lost sight of the nature of the delegation and sought to consolidate their power and independence. Whatever the reasons for this gradual drifting apart, the resulting situation is totally inconsistent with the proper functioning of a delegation of public responsibility. Moreover, the absence of a DOT representative at critical TCC meetings diminishes the probability that any error made by the Committee will be discovered before it is embodied in a structure or a change in policy.

Record Keeping:

Like any other body utilizing precedent as a basis for current decisions, the TCC is highly dependent on the quality of its own records. And the quality of TCC record keeping is severely lacking.

The Committee maintains no files of the precedents against which approval may be requested. It maintains no lists of approvals from prior applications; the data shown on an application claiming precedent approval is the only clue that a drawing is current. Moreover, the only way to determine what type of materials, valves, and appurtenances have been approved is to leaf through the thousands of applications on file until the appropriate document is found. These are only the most prominent examples of the record keeping problem; others could be cited.

The record keeping practices utilized by the TCC are inconsistent with ready access to the data needed by Committee members to perform their responsibilities. This data base represents a potential source of error rather than a protection against it.

Facility Certification:

One of the Committee's most important functions is the certification of facilities qualified to perform tank car construction, repair or modification. This is also the area in which the assessment team had the least confidence in the quality of the Committee's performance.

In the course of the assessment, the team conducted 13 inspections of AAR-certified fabrication and repair facilities. While we discovered no problem serious enough to draw a facility's right to retain its certification into question, we discovered a series of procedural irregularities and some lesser substantive irregularities that suggest an overall laxness in the degree of TCC oversight. For example:

- We discovered many instances in which Exhibit R-1 reports (the basic documentation required for any welded repair or modification) were not prepared and filed by the facility actually performing the work.

- We noted one facility, in the process of financial reorganization, that had failed to file the required forms for the period 1982-1984.

- We noted instances of failure to prepare Subcontractor Evaluation Sheets (Exhibit B-1 forms) for each outside contractor.

- We discovered procedural errors ranging from x-ray work performed in violation of Tank Car Manual requirements, and the use of welders with expired certification, to the use of "eyeball" rather than more technically correct inspections of tank car interiors.

While none of the conditions discovered led the assessment team to doubt the integrity of the cars or tanks at the shops when the inspections were conducted, they were evidence of a lax system of oversight in an area where loose procedures and passive oversight are not acceptable.

Absence of Follow-up Check on In-process or Completed Cars:

The TCC uses two mechanisms to ensure tank car compliance with Federal standards:

- Mandatory review and pre-approval of construction applications, including drawings, and

- Certification of the facilities in which the work will be performed.

At no point after approval of the application does the Committee inspect the product itself. It is up to the builder to inspect the finished cars and certify that they comply with DOT regulations, AAR requirements, and TCC-approved drawings. At least in theory, the TCC facility certification process ensures that these inspections and certifications are performed in a fully professional manner.

It is legitimate to question whether the absence of any independent vehicle inspection either during or after construction represents a weakness in the system. A facility which makes an assembly error because it misunderstands a drawing may well fail to recognize that error in a subsequent inspection. Moreover, there are problems of appearance, at least, in placing sole reliance on the ability of tank car construction facilities to inspect and police their own work. In analogous areas, such as compressed gas cylinders and intermodal portable tanks, the use of independent inspectors on at least a spot-check basis is a common practice.

After considerable discussion, the assessment team decided not to include a specific recommendation to alter this aspect of the current system in its final recommendations. The primary reason for this decision was the fact that AAR had already acted to initiate changes aimed at resolving FRA/RSPA concerns about the practices discovered during the assessment. Those changes include having AAR personnel inspect tank car manufacturing and repair facilities; naming additional railroad employees to the Tank Car Committee; and commencing the microfilming of, and computer access into, tank car construction applications and repair records. We intend to evaluate implementation of those reforms on an ongoing basis, and for the moment reserve judgment on whether they are, in fact, sufficient to resolve our concerns. For the present, however, the reforms have mitigated those concerns to such an extent that we have elected not to incorporate specific recommendations for independent physical inspections in this report. However, this is an issue that the Department and the TCC should review as the process of tightening facility oversight progresses.

Procedures:

The assessment disclosed a number of instances in which the Committee departed from its own rules and procedures and others where the rules themselves are subject to question. The discrepancies found were not major, but they do suggest the need to both review the practicality of the Committee's procedural rules and to pursue more methodical adherence to them.

In particular, the assessment team questions the provision permitting 50 percent plus one member of the Committee to constitute a quorum for approval of an application. In our view, the decision to accept membership on the Committee carries with it a responsibility to review those matters that come before the TCC for deliberation. We do not question the fact that an occasional need will arise for a member to be excused from a particular proceeding, but lack of participation should be the exception, not the rule, and procedures which routinely allow approval with only one more than half the members participating encourage inconsistent levels of involvement by Committee members.

HEAD SHIELDS AND THERMAL INSULATION FOR TANK CARS

Mr. **Lehman**. What action does RSPA plan to take for requiring increased use of head shields and thermal insulation to better protect HAZMAT tank cars?

Mr. **Dungan**. We have found that those requirements are about 95 percent effective. They are very, very important to railroad safety, particularly in cases of derailments. What we plan on doing is opening up new rulemaking to deal with other types of rail cars or tank cars in different commodities.

Mr. **Lehman**. Would you keep us up to date on the progress of this rulemaking?

Mr. **Dungan**. Yes, sir.

CYLINDER INSPECTION PROGRAM

Mr. **Lehman**. Describe RSPA's cylinder inspection program, including the number of personnel assigned to the program full time, their responsibilities and the ability of those persons to assure that cylinders in transportation meet all federal safety requirements.

Mr. **Dungan**. The cylinder area is just one of many things that we regulate in terms of packaging, and we inspect the manufacturers of both high and low pressure cylinders. We inspect the repair people, the retesters. We inspect the agencies who are third parties that inspect these firms for us as well as shippers themselves.

Right now we have two people who are devoted to that effort. We have another person who is in training right now.

But I would say that all of our inspectors are constantly aware of the cylinders in use and frequently go into that type of inspection if they believe there is a problem, or if a problem has been reported to us. It is essentially three full time, but assisted by the rest of the inspection staff.

Mr. **Lehman**. How big is this cylinder industry? What do they put in the cylinders?

Mr. **Dungan**. Well, the cylinders are everywhere, from airplanes to construction sites, hospitals.

Mr. **Lehman**. Like oxygen and acetylene?

Mr. **Dungan**. Acetylene, exactly.

Mr. **Lehman**. Or bottled gas for home cooking and heating?

Mr. **Roberts**. We are dealing with a population well in excess of one hundred million cylinders nationwide.

Mr. **Lehman**. One hundred million?

Mr. **Roberts**. Yes, sir. And they are used in all kinds of operations; military, NASA, we have had a lot of involvement with NASA on the space shuttle and other activities relative to compressed gases. It is a very, very big industry, and we are aware that some concern has been expressed about it. The overall record of this particular industry, the high-pressure cylinder industry, has been very good, and in 20 years we do not have one recorded event that relates to a cylinder failure due to defective manufacturing or due to improper inspection.

Mr. **Lehman**. And you are talking about one hundred thousand cylinders and two people. You did not put your finger on how many cylinders.

Mr. **Roberts**. Mr. Chairman, I think I should point out that we have a system of third-party inspection agencies that are certified by us to perform inspections of twenty three hundred odd cylinder retest facilities throughout the country. There is a monitoring process in place for ascertaining these facilities are, in fact, doing a good job reinspecting and certifying the cylinders for continued service.

In the high-pressure cylinder manufacturing area, in each plant there is a full-time third-party inspector authorized by us, approved by us, in that plant during certain phases of the manufacturing process. They must witness all the tests of the cylinders before they are released for service.

Mr. **Lehman**. Are these third-party people from some industrial laboratory independent of your agency?

Mr. **Roberts**. Yes. Some famous names are Lloyds Registry, a subsidiary of Lloyds of London; Pittsburgh Testing Laboratories; W.H. Hunt. There are many very well known agencies.

Mr. **Lehman**. You have said enough.

Mr. **Roberts**. Yes, sir.

RECALL OF NONCOMPLYING CYLINDERS

Mr. **Lehman**. Thank you.

Although RSPA has identified instances of noncompliance with federal safety requirements for cylinders and has fined manufacturers for those problems, does RSPA also order the recall of noncomplying cylinders? If not, why? If so, cite instances and reasons for the recall?

Mr. **Dungan**. We do not have expressed authority to actually stage a large-scale recall. But through our authority to prevent something from being used that we deem dangerous, we essentially can create a recall.

Al, maybe you would like to expand?

Mr. **Roberts**. Yes, sir.

On six occasions we have published Notices in the Federal Register related to a de facto recall of compressed gas cylinders due to certain deficiencies. One of the problems we are faced with is that cylinders are used outside of our jurisdiction. For example, a big use is firemen's breathing apparatus, but they are all made to DOT requirements.

We had a case where there was failure to run the retest program in accordance with our regulations. A fireman was seriously injured. We engaged in the investigation with the assistance of the National Bureau of Standards and found a certain flaw that required us to reduce the service pressure of those cylinders and engage in a form of a recall, and we have done this on six different occasions.

INDEPENDENT INSPECTION OF CYLINDERS

Mr. **Lehman**. Thank you.

What is the position of RSPA on the need for independent inspectors for newly constructed or reconditioned cylinders?

[The information follows:]

In general, RSPA believes that independent inspection is a valuable compliance tool relative to the manufacture, repair, and testing of compressed gas cylinders. Currently, independent inspection is required for the manufacture of high pressure cylinders and certification of the qualification of more than 2,000 cylinder retest facilities.

CYLINDER RETEST FACILITIES

Mr. LEHMAN. What qualification requirements are there for cylinder retest facilities, and how does RSPA monitor the performance of those facilities?

[The information follows:]

In order to qualify and be approved as a cylinder retest facility, the applicant must demonstrate the knowledge and capability to perform cylinder retest functions. This demonstration must be witnessed by an independent inspection agency representative acceptable to RSPA. The independent inspection agency submits a report of the inspection to RSPA together with a recommendation for registration. RSPA reviews the inspection report and the registration recommendation and, if found acceptable, issues a cylinder retestor's identification number which is required to be marked on each cylinder approved for continued service. The retestor must be requalified every five years, and RSPA includes these type of facilities in its enforcement surveillance program.

OPEN NTSB RECOMMENDATIONS

Mr. LEHMAN. Please update the list of open NTSB recommendations in the HAZMAT area shown on pages 693 and 694 of last year's hearing record, and specifically include new data on when you expect to resolve each open item.

[The information follows:]

We have been diligently working on the NTSB recommendations during the year and have responsive actions underway for all of them. Most recommendations take five or more years to "close" because they involve extensive rulemaking action or supporting research which is subject to budget constraints. In 1989, 88% of the NTSB recommendations were involved in rulemaking action or research. During 1989 we completed 2 rulemaking actions which address 11 recommendations: HM-126C/emergency response communications (4) and HM-183A/cargo tank specifications (7). NTSB is still reviewing our request for "closed-acceptable action". The following is a listing of all open recommendations received since 1983 with an indication of how they are being resolved: rulemaking action RA; study (S); publication (P); research (R).

[The information follows:]

RECOMMENDATION	DATE ISSUED	RSPA COMMENT
I-83-2	11/29/83	Emergency Information Materials Safety Data Sheets (MSDS) (RA) Completed, awaiting NTSB closing.
I-83-4	12/6/83	Preshipment Inspection (RA) 1991
I-85-10	5/16/85	Adequacy of General Shipping Names on Shipping Papers for Hazardous Waste (RA) Completed, awaiting NTSB closing.
I-85-11	5/16/85	Shipper Responsibilities (RA) 1991
I-85-19	8/12/85	Molten Sulphur & Molten Materials closed (RA) late 1991
I-85-20	8/12/85	Definition of Flammable Solids 1991 (RA)
I-86-5	6/17/86	Cargo Tank Repairs Inspector Qualifications (RA) Completed, awaiting NTSB closing.
I-86-6	6/17/86	Cargo Tank Repairs Repairman Qualifications (RA) Completed, awaiting NTSB closing.
I-86-7	6/17/86	Cargo Tank Repairs Weld Defects (RA) Completed, awaiting NTSB closing.
I-86-8	6/17/86	Cargo Tank Repair Weld Standards (RA) Completed, awaiting NTSB closing.
I-87-4	5/11/87	Thermal Protection for Munitions Completed, awaiting NTSB closing.
I-87-5	5/11/87	Evacuation Distances for Munitions Accidents Completed, awaiting NTSB closing.
I-88-6	10/24/88	24 Hour Telephone-CHEMTREC (RA) Completed, awaiting NTSB closing
R-83-5	1/28/83	Originating Shipper Identification (RA) Completed, awaiting NTSB closing.
R-85-61	6/24/85	Head Shield Testing (R) 1991

RECOMMENDATION	DATE ISSUED	RSPA COMMENT
R-85-70	6/17/85	Petrochemical Loading Facilities (RA) 1991
R-85-105	11/13/85	Head Protection (RA) 1991
R-87-17	6/25/87	Change "Occupied Caboose" to "End-of-Train" (RA) 1991
R-87-18	6/25/87	Location of Consist List for Emergency Response (RA) 1991
R-89-52	7/14/89	Carriers/Shippers and Incident Reports (s) 1991
R-89-53	7/14/89	Tank Car Closure Fitting Design (R) 1991
R-89-54	7/14/89	Specification to Secure Closure Fittings (R) 1991

OPEN-UNACCEPTABLE ACTION ON NTSB RECOMMENDATIONS

Mr. LEHMAN. Also, for each NTSB recommendation classified "open—unacceptable action", please summarize each recommendation and explain why you have not taken action acceptable to the NTSB.

[The information follows:]

There are four recommendations which are classified as "open-unacceptable action." As part of the safety recommendation process, RSPA has the responsibility to examine the cost benefit implications of each NTSB recommendation and analyze possible alternative actions including comments from affected parties in the public sector. An "unacceptable" recommendation more appropriately indicates that there is an open dialogue in process between the two agencies so that all the options may be fully considered.

The four open unacceptable recommendations are: R-85-105/Head Shield Protection for Tank Cars, I-85-11/Shipper Responsibilities vis-a-vis Packaging Materials, I-80-01/Volume and Temperature Requirements for Tank Car Loading Records and R-87-17/Placement of Hazardous Materials Cars on Cabooseless Trains. We believe that we have taken acceptable action on both R-85-105 and I-85-11 through the rulemaking process. In September of 1988, RSPA notified NTSB that R-85-105 was being addressed by a two pronged regulatory approach 1) a supplemental notice to Docket HM-181 addressing new tank car construction and 2) an advance notice of proposed rulemaking (ANPRM) to address the retrofit of existing tank cars. In response, NTSB accepted the action but decided to continue R-85-105 as unacceptable until both rulemaking actions are completed. I-85-11 is also being addressed in HM-181. However, NTSB has also classified this recommendation as unacceptable until publication of the HM-181 final rule.

I-80-01, involves some complex technical considerations such as identifying the volume of a pressurized liquid gas under a variety of accident conditions. We believe that the NTSB proposal will not be cost effective and would not provide all the information necessary to successfully implement the recommendation. As a result, we are exploring several alternative approaches which we hope will be mutually acceptable.

We are and have been taking responsive action with regards to R-87-17 which deals with the placement of cars containing hazardous materials on cabooseless trains. In the process of developing an ANPRM on the subject we discovered that the issue is much broader than what NTSB had presented and should apply to all trains—not just cabooseless trains. As a result, the scope of our effort has considerably expanded and we now are finishing a Notice of Proposed Rulemaking which we expect to publish before May 5, 1990.

ADDITIONAL PIPELINE SAFETY POSITIONS

Mr. LEHMAN. Mr. Coughlin, would you like to do some pipeline safety issues?

Mr. COUGHLIN. Thank you, Mr. Chairman. You are requesting nine additional positions in the Office of Pipeline Safety for fiscal year 1991. Could you explain the types of positions needed and the rationale?

Mr. DUNGAN. We have asked for nine, and eight of those are on the enforcement side. Six of them are inspectors which would be put out in the southwestern and western regions, and two enforcement personnel back here in Washington to support the additional staff out in the field.

We have a lot of problems in the pipeline area that we are trying to resolve. We want to do a better job in regulating offshore pipelines. We want to do as complete a job as possible in accident investigation. We have not been observing the construction of new pipelines which we think is something that we ought to be present for at least part of the time.

From time to time things come up where we have to take a number of inspectors who can examine a particular pipeline that may be very long. As a matter of fact, we have one of those task forces now working on a pipeline that comes from the Gulf all the way up to Boston.

Also, we are going to devote one of our people full time to Alaska. Because of the Valdez incident, we want to make sure that Alyeska has not cut any corners on that pipeline because that carries 25 percent of our domestic oil supply.

The other reason that we need additional inspectors is because of the new requirements we have added to the pipeline companies. For example, the drug testing rule. We have to go in there and inspect that as part of our inspection process, and I think there are also some training rules that they need to enforce.

CAP ON PIPELINE SAFETY INSPECTORS

Mr. **Coughlin**. Does this request put you over the cap on inspectors as provided in the Pipeline Safety Act of 1988?

[The information follows:]

No. Our 1991 request for six additional inspectors is within the authorized number of inspectors. The Pipeline Safety Reauthorization Act of 1988 authorized the Office of Pipeline Safety to hire, as provided by appropriations, 8 additional pipeline safety inspectors in 1989 and another 8 inspectors in 1990. In 1989 and 1990 we did not seek nor did we receive an appropriation to increase the number of pipeline safety inspectors to the level authorized.

PCB SHORTFALL

Mr. **Coughlin**. We have heard that this office may have a shortfall in personnel compensation and benefits for fiscal year 1990. Is that so? What is the estimated shortfall, and how did you propose to address it?

Mr. **Dungan**. There is an estimated shortfall. It is about $300,000. For the current year, we are looking at a variety of ways that we might go about funding it, and one of those may well be a request for reprogramming.

If I could just speak generally about RSPA, the RSPA budget has been—there have been a lot of funds that have gone back and forth between different offices, and what we are trying to do is make the system more honest. We are trying to give you all a better idea of what it costs us to operate our different programs, and we are trying to eliminate some of the interchange in funding that has taken place in the past.

Mr. **Coughlin**. Is your fiscal year 1991 PCB estimate subject to the same shortfall? And if so, by how much?

Mr. **Dungan**. The shortfall for that year, I think, is $150,000, and we will be looking at the same options to deal with that.

Mr. **Coughlin**. Is it an accounting change or is it a real shortfall?

Mr. **Dungan**. No, it is, in fact, a shortfall.

PIPELINE SAFETY INSPECTION CYCLE

Mr. **Coughlin**. Can you achieve a two and a half-year inspection cycle without additional inspectors?

Mr. DUNGAN. No, we cannot. And, frankly, we were criticized pretty intensely regarding how we got that 2.5 number. The number was arrived by taking the numbers of pipeline units and dividing by the number of inspectors on staff. While that is a nice arithmetic calculation, that is not necessarily the best way to go about conducting your safety program.

I had the head of enforcement in pipeline and the bureau of the regional chiefs take some time out for a realistic assessment of how many inspections they could do per person given all the different demands on inspectors' time; some of those things I told you earlier—task forces, accident investigations and so on.

We have proposed a program that is risk-based, called our PIPP system.

Mr. TENLEY. Pipeline Inspection Priorities Program, PIPP.

Mr. DUNGAN. The PIPP program, which will be in full operation by the end of this calendar year. What we hope to do, instead of trying to inspect every pipeline two and a half years, is inspect every pipeline every five years, but then inspect the ones that have the higher risk much more frequently.

Mr. COUGHLIN. Your statistics show that 480 annual inspections of onshore pipeline facilities will result in achieving this two and a half-year inspection cycle.

How many comprehensive inspections were completed in 1989? How many do you estimate in 1990? And how many are assumed in the fiscal year 1991 budget?

Mr. DUNGAN. The actual for 1989 was 272. Our best estimate for 1990 and 1991 would be 300 and 360, respectively.

Mr. COUGHLIN. Last year you advised the Committee that the first inspection cycle would be completed in the first quarter of 1990. Will you still make that goal? And if not, why not?

Mr. DUNGAN. No, we will not make that goal. It simply was overly ambitious, and the reason we are asking for more inspectors is so that we can get more of the inspections accomplished.

Mr. COUGHLIN. When will you make it?

Mr. DUNGAN. Well, the goal was this two and a half-year cycle. We are going to change that, so we will make a two and a half-year cycle for very risky pipelines. Hopefully, we will be inspecting them even more often.

Essentially, we are taking that two and a half years and saying it was a mistake in the way it was calculated. It is not a good goal, and we have come up with an alternate set of goals that we can meet.

Mr. COUGHLIN. When will you complete the one full inspection?

Mr. DUNGAN. George, do you want to respond?

Mr. TENLEY. If I understand the question, and I am not sure that I do, Mr. Coughlin, let me tell you how it will happen.

We were going to complete the 2.5 cycle in July of this year. We will not have made the 480 goal as of that time. We will begin on August 1st to transition to the new inspection cycle of at least every five years, and the more ambitious cycle for the high-risk pipeline inspection units. So there is a cut point at which we have to just give up that unrealistic goal and begin our new approach.

Mr. COUGHLIN. So it has essentially slipped until July?

Mr. TENLEY. We will close the 2.5 effort in July. That is right.

Mr. **Coughlin**. Have you provided training and guidance to pipeline safety field personnel as recommended by the GAO last year?

Mr. **Dungan**. Yes, we have.

PIPP IMPLEMENTATION SCHEDULE

Mr. **Coughlin**. The Pipeline Inspection Priority Program, your PIPP program, is a computer system which will allow pipeline inspectors to target their limited resources on problem areas. PIPP has experienced some delays. When will it be fully implemented?

Mr. **Dungan**. It will be fully implemented by December of this calendar year. It is back on schedule.

Mr. **Coughlin**. Provide for the record the PIPP implementation plan submitted to the Congress on November 13, 1989.

[The information follows:]

U.S. Department
of Transportation

**Research and
Special Programs
Administration**

The Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

NOV 13 1989

The Honorable William Lehman
Chairman, Subcommittee on Transportation
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Fiscal Year 1990 House Appropriations Report (101-183) contains language (which was adopted in Conference) directing the Secretary to submit to Congress an implementation plan for the Pipeline Inspection Priority Program (PIPP) by no later than October 30, 1989. The plan is to identify the necessary tasks and a schedule that will enable PIPP to be fully operational by December 1990.

Below are the tasks and their completion date which are alphabetized to correspond to the Committee's report language:

a. Completion of software development: June 30, 1990.
b. Hiring of headquarters personnel: By the end of January 1990 either a hire from outside or dedication of a current employee to the PIPP project.
c. Training of field staff: August 30, 1990.
d. Guidelines for field staff: August 30, 1990.
e. Entering inspection results: Currently on-going (refinements will be made as training, guidelines, and software are finalized). To be completed no later than September 30, 1990.
f. Headquarters risk analysis: Currently on-going to the extent that PIPP will be used as a "risk assessment" tool - represents a dynamic process that will be refined as adjustments are made to PIPP and experience is gained using it.
g. Use by regions to set priorities: PIPP will become a prioritization tool during the time period October 1, 1990 - December 1990.

We understand the Committee's continuing interest in PIPP and we are confident that the federal PIPP program will be fully implemented by the December 1990 deadline.

If you have any questions please call me or George Tenley, Director of the Office of Pipeline Safety.

An identical letter has been sent to Congressman Lawrence Coughlin, Senator Robert Byrd, and Senator Mark Hatfield.

Sincerely,

Travis P. Dungan

Travis P. Dungan

DOT RESPONSE TO GAO PIPELINE SAFETY REPORT

Mr. COUGHLIN. Provide for the record the DOT response to GAO Report GAO/RCED-89-107, concerning pipeline safety.

[The information follows:]

DEPARTMENT OF TRANSPORTATION
STATEMENT ON GAO REPORT

I. TITLE: Pipeline Safety: New Risk Assessment Program Could Help Evaluate Inspection Cycle (GAO/RCED-89-107).

II. SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS. The General Accounting Office (GAO) concluded that when the pipeline inspection cycle of inspecting all pipeline units within a 2.5 year to 3 year interval was developed, the Office of Pipeline Safety (OPS) did not consider that units with a high relative safety risk needed to be inspected more frequently than units with a low relative safety risk. In addition, OPS did not provide sufficient training on how to enter and validate the pipeline data and use its Pipeline Inspection Priority Program (PIPP). GAO further concludes that OPS is currently not planning to use the data from the PIPP to evaluate its inspection cycle or staffing level.

GAO recommends that the Secretary of Transportation direct the Administrator of the Research and Special Programs Administration (RSPA) to: (1) provide training to field staff on how to access and validate the PIPP data and (2) issue guidance to regions on how to characterize the pipeline units' safety risks.

Additionally, once PIPP becomes operational, the Secretary should direct RSPA's Administrator to use the information on the number and regional location of high-risk pipelines to determine whether its pipeline inspection cycle and current inspector staffing levels are appropriate.

III. SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION. RSPA generally agrees with the conclusions of the GAO report. However, there is one statement that could be misconstrued by those evaluating the RSPA OPS program and warrants clarification. That statement is that "OPS did not consider that units with a high relative safety risk need to be inspected more frequently than units with a low relative safety risk." On May 6, 1987, during testimony before Congressman Oberstar's Subcommittee on Investigation of the House Public Works Committee, Congresswoman Johnson asked, "Is there anything that you would look at more frequently than every two-and-one-half years?" Administrator Douglass responded that the priority inspection program will help us determine whether there are some companies or units that need to be inspected more frequently than every two-and-one-half years. The testimony before the Committee also made it very clear that the PIPP will be used as a tool in determining the inspection cycle for a unit.

In response to the first recommendation on providing training to the field staff on how to access and validate the PIPP data, RSPA recognizes the need to provide additional training to regional staff. RSPA is currently in the process of hiring a senior engineer whose major responsibilities will include the management of the PIPP and developing guidance and training for regional staff.

In response to the second recommendation on issuing guidance on how to characterize the pipeline units' safety risks, RSPA has provided this guidance to regional staff in its Enforcement Manual. In addition, the Regional Chief has the flexibility of inspecting units more frequently than the average 2.5 year interval if he determines that public safety warrants it. This flexibility has always been the policy of RSPA/OPS. RSPA will incorporate this guidance into the instructions given to the regions on how to assign PIPP unit inspection priorities characterizing the potential safety risks associated with specific units.

Further, RSPA intends, after fully field testing the PIPP, to use the program as a management tool in determining the appropriate inspection intervals. RSPA will also determine, after the program is field tested and evaluated, if the program can be used as a management tool in determining inspection staff levels.

PIPP BUDGET REQUEST

Mr. **Coughlin**. How much funding is requested for PIPP in the fiscal year 1991 budget, and is that amount adequate to meet the aforementioned schedule?

Mr. **Dungan**. We will have one full-time person working on the system, so we will take care of developing the software, and we will probably keep one person on it full time to continue developing it. We view this as a dynamic system that as we get better at targeting, we will keep improving the system.

OFFSHORE PIPELINE INSPECTION

Mr. **Coughlin**. According to last year's testimony, you are going to achieve this two and a half-year inspection cycle for onshore pipelines only by relaxing the offshore inspection cycle to once every five years. Does that not significantly increase the risk on the offshore area?

Mr. **Dungan**. Well, we plan on increasing the number of personnel in the offshore area. That is a large part of our request for six new inspectors. I believe three or four of those will be dealing with offshore pipelines in the Gulf area.

Mr. **Coughlin**. How much of OPS's resources have been devoted to inspection and enforcement of offshore pipelines in fiscal years 1989 through 1991?

Mr. **Dungan**. In 1989, we would say it is about a half-person year. In 1990, we would estimate 1.2-person years. And in 1991, we hope to get it up to three-person years.

OFFSHORE PIPELINE SAFETY TRANSFER TO MMS

Mr. **Coughlin**. Given the relative resources of RSPA and the Department of the Interior's Minerals Management Service, would RSPA support a transfer of all offshore pipeline safety responsibilities to the MMS?

Mr. **Dungan**. That is something that we are looking at as an option. If we do not have the resources to do the job properly and another agency does have those resources, it may make sense to do that.

I am not sure what the DOI position is on it, and I am pretty certain that it would require some specific legislation to make the change. But we will be looking very hard at the offshore issue over the coming year. If we feel that we cannot do an appropriate job, then that would be an option we might pursue.

OFFSHORE PIPELINES IN THE GULF OF MEXICO

Mr. **Coughlin**. What action is OPS taking to determine the numbers, location, and ownership of offshore pipelines in the Gulf of Mexico? What action is being taken to minimize future damages from vessel traffic to offshore pipelines?

Mr. **Dungan**. We met with the company that had the accident, and they explained to us that they were very concerned about the new fishing season which starts in April. We have called for a meeting with the Interstate Natural Gas Association as well as the American Petroleum Institute, with the pipeline people involved in those two trade groups to see if there is something we can do immediately in determining where these are.

The second thing we have done is we have had a meeting with the Coast Guard, with NOAA, DOI, and the U.S. Army Corps of Engineers to see if there is anything we can come up with try to deal with this issue.

What we need to do is get all these pipelines on all the maps and charts and then we need to have these fishing vessels use the maps and charts.

OFFSHORE PIPELINE INSPECTIONS

Mr. COUGHLIN. I have been informed that other countries have robots that go down and inspect the pipes and determine the depths of them. Are you for that?

Mr. DUNGAN. We are engaging in a technology search right now. The company that had the accident told us about side scanning sonar, and our Office of Research and Technology is doing a full in-depth study to see what technologies might work. There is no accepted clear technology now.

Mr. COUGHLIN. You do not have any requirement for periodic inspection of the burial depth of pipes?

Mr. DUNGAN. Not at this time, no.

Mr. LEHMAN. On the pipelines that have not been buried sufficiently, have ships dragging their anchors had problems such as hooking onto these pipelines?

Mr. DUNGAN. I do not know of any specific accidents in the recent past like that, but it is a problem because the boats that are involved in the type of fishing that we are dealing with here literally drag across the bottom for the type of fish that they need. I am not sure that even if you had the cover that was required, that it would stop an accident from happening as long as you have ships that are in very shallow water.

Mr. LEHMAN. It seems that the pipeline would be a perfect place for an anchor to hold to.

Mr. DUNGAN. Absolutely.

Mr. LEHMAN. I just wondered whether all that is in your heads and——

Mr. DUNGAN. It certainly is, and we are going to do our best to improve our coverage of offshore pipelines.

Mr. LEHMAN. Thank you.

STATE PIPELINE MONITORING

Mr. COUGHLIN. Since the KPL Gas Company's accidents in Kansas and Missouri, has the OPS made any changes in its monitoring and enforcement of state pipeline safety programs?

Mr. DUNGAN. We have. We now make an actual field visit to monitor the State's pipeline safety oversight of the customer service lines that are under the State agencies' jurisdiction.

Mr. COUGHLIN. Would you tell us which states are particular problems in the area of pipeline safety and why? How has this changed from last year?

Mr. DUNGAN. There are a number of different ways of approaching that question. This first would be the state of Washington, which, as of January 1st, completely dropped its inspection program.

What happens then is the 40 inspection units that they were handling now come back to the Federal Government and we will have to make the inspections of those 40 units. This is one of the reasons why one of our new inspectors would go out to the western region. That is certainly a problem State because we want to leverage State resources in this effort.

There are other States where you have particularly sensitive issues, Alaska being the prime example where you have the Alyeska pipeline. They also have a proposed liquified natural gas facility and two proposed gas pipelines. We have taken one of our senior people and assigned him full time to Alaska pipeline safety matters.

PIPELINE SAFETY GRANTS

Mr. COUGHLIN. Is the requested increase in pipeline safety grants for fiscal year 1991 to be allocated, primarily, towards those States?

Mr. DUNGAN. There is a complicated formula that we use in the interest in trying to be fair to all of the States.

We will not be devoting the increase funding completely to states that we consider to have problems.

ONE-CALL DAMAGE PREVENTION PROGRAM

Mr. COUGHLIN. Can you please update us on the one-call damage prevention program and where it stands today? It is a particular initiative of this Committee.

Mr. DUNGAN. George Tenley has promised me that the proposed model will be out by April of this year. We will have a final model just a month later.

Is that right, George?

Mr. TENLEY. That is right

PIPELINE SAFETY RULEMAKING SCHEDULE

Mr. COUGHLIN. Please expand on your answer for the record, including a current schedule for rulemaking activities for both gas and liquid pipelines completed within the past year or expected to continue through 1991. Summarize any final rule promulgated within the past year.

[The information follows:]

Requirements for appropriate one-call notification systems in areas containing underground gas or hazardous liquid pipeline facilities will be issued in May 1990 for adoption by the states.

Rulemakings issued in 1989:

- **Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations** (issued April 13, 1989) - This rulemaking delayed the implementation dates stated in its anti-drug rule to permit careful reevaluation of its rule in light of the Supreme Court's recent guidance, as well as consideration of the issues raised by the petitions for reconsideration now pending before it.

- **Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations** (issued December 18, 1989) - This final rule responds to petitions for reconsideration, of the final rule, published in the Federal Register on November 21, 1988, requiring operators of pipeline facilities for the transportation of natural gas or hazardous liquids and operators of liquefied natural gas facilities to have an anti-drug program for employees who perform certain sensitive safety-related functions covered by the pipeline safety regulations. The petitions for reconsideration are granted in part and denied in part.

- **Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations** (issued December 27, 1989) - This rulemaking announced a delay in the effective date of regulations governing drug testing, insofar as those regulations would require testing of persons for whom a foreign government contends that application of these regulations is not compatible with that country's domestic laws or policies. Under this final rule, these persons must become subject to testing no later than January 2, 1992. This delay of implementation was adopted in order to allow negotiation with foreign governments to continue in an orderly and effective fashion.

- **Gas and Hazardous Liquid Pipelines; Referenced Standards Deletion Affecting Iron, Steel, and Copper Pipe and Other Materials** (issued February 6, 1989) - This final rule deletes references to certain voluntary design and construction standards concerning cast iron, ductile iron, wrought steel, and wrought iron pipe; copper pipe and tubing; well casting tubing and drill pipe; bronze flanges; and other materials. The references are no long needed for safety because the materials have minimal or no usage in new gas and hazardous liquid pipelines. This action significantly reduces the number of voluntary standards that are now incorporated by reference in Parts 192 and 195 and the burden of keeping these references up-to-date.

- **Confirmation or Revision of Maximum Allowable Operating Pressure; Alternative Method** (issued June 6, 1989) - Under this final rule, the maximum allowable operating pressure (MAOP) of a pipeline may be confirmed or revised as a specified percentage of its past test pressure, provided the test was conducted for at least 8 hours. Previously, a pipeline must have been tested to at least 90 percent of the specified minimum yield strength (SMYS) of the pipe to qualify for this method of confirming or revising MAOP. This rule change may reduce the need to retest pipelines for which past test pressures provide an adequate safety basis for current operating pressures.

- **Reporting Safety-Related Conditions; Discovery of Conditions by Smart Pigs; Enforcement Rules** (issued August 7, 1989) - This final rule makes clarifying changes (without imposing new burdens) to recently established reporting requirements regarding safety-related conditions, and state agency policy regarding discovery of those conditions by smart pigs. In addition, the pipeline safety enforcement procedures are modified to reflect statutory changes authorizing increased civil penalties for violations and specific criminal penalties for destruction of signs or markers.

- **Exception From Pressure Testing; Non-Welded Tie-In Joints** (issued February 3, 1989) - As a result of receiving 16 petitions for reconsideration of a final rule requiring leak testing of welded joints that tie in pressure-tested segments of pipeline, RSPA was persuaded by the petitions that because these joints are generally subject to nondestructive testing and because the need for leak testing has not been adequately demonstrated, the requirement lacks an adequate safety basis. Therefore, RSPA deleted the requirement from the rule.

- **Pipeline Safety; Steel Pipe** (issued August 7, 1989) - This final rule updates to the 1988 edition the existing incorporation by reference in the gas and hazardous liquid pipeline safety standards of the American Petroleum Institute (API) Specification 5L, "Specification for Line Pipe." The purpose of this updating is to permit operators to use steel pipe made in accordance with API's latest technical requirements.

Rulemakings to continue through 1991:

- Gas Gathering Line Definition
- Proposals for Pipeline Safety
- Qualification of Pipeline Personnel, PS-94
- Operation and Maintenance Procedures for Gas Pipelines
- Conforming Gas and Liquid Pipeline Welding Standards: Final Phase
- Hydrostatic Testing of Certain Hazardous Liquid Pipelines
- Excavation Damage Prevention Programs for Gas and Hazardous Liquid Pipelines, PS-101
- Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory
- Gas Detection and Monitoring in Compressor Station Buildings, PS-100
- Determining the Extent of Corrosion on Exposed Gas Pipelines
- Gas Pipelines Operating Above 72 Percent of Specified Minimum Yield Strength
- Transportation of Hydrogen Sulfide by Pipeline
- Leakage Surveys
- Pressure Regulators Subject to Inspection and Testing
- Alternative Weld Defect Acceptance Criteria
- Passage of Internal Inspection Devices
- Transportation of Carbon Dioxide by Pipeline
- Amendment of an Operator's Plans or Procedures
- Updating References to ASTM Specification D2513
- Transmission Lines Supplying Large Volume Customers
- Heat Fusion Joints in Plastic Pipelines
- Atmospheric Corrosion
- Design and Construction of Welded Breakout Tanks
- Split Service Lines
- Pressure Testing Plastic Pipe

ONE-CALL DAMAGE PREVENTION PROGRAM

Mr. **Coughlin**. Update for the record the data on state participation in one-call systems found on page 507 of last year's hearing record, and give statistics showing how the pipeline safety grant-in-aid program has been used to provide incentives and penalties which encourage greater state participation.

[The information follows:]

At present there are approximately 90 one-call systems in the U.S., operating in 48 states and the District of Columbia. Our records indicate that 40 states have statewide one-call coverage, served mostly by 1 or 2 centers, although 7 states are served by 4 or more centers. Eight states have incomplete coverage. Hawaii, South Dakota, and Puerto Rico have no one-call coverage.

In response to Section 303 of the Pipeline Safety Reauthorization Act of 1988, we are developing regulations for the adoption into state law of one-call system requirements by states participating in the Federal pipeline safety grant-in-aid program. In addition, we are required to limit the reimbursement to states that have not adopted or are not seeking adoption of one-call notification systems. The minimum Federal requirements for the establishment and operation of one-call notification systems, including incentives and penalties for encouraging greater state participation, will be published in May, 1990.

PIPELINE INSPECTION DEVICES

Mr. **Coughlin**. The current pipeline safety authorization act requires the promulgation of regulations requiring the use of internal inspection devices, so called "pig" devices. You have been conducting some analysis of those factors which justify the use of pigs. What have you found and what is your timetable for finishing the research and proceeding with rulemaking?

Mr. **Dungan**. We have taken a great interest in pigs. They can be extremely helpful on the pipelines that can accommodate them.

We published a request for information back on May 15th of last year. And we hope to complete our study in May of this year. Based upon that study we will decide whether to pursue rulemaking.

Mr. **Coughlin**. Is that schedule consistent with the Secretary's pipeline safety task force recommendation that such regulations be expedited?

Mr. **Dungan**. I don't know the answer to that off hand. Do you George?

Mr. **Tenley**. I have a comment.

Mr. **Dungan**. Go ahead.

Mr. **Tenley**. Generally, yes. But a lot of our rules have slipped as a group. So, it has slipped from what the task force would have liked us to do. But it certainly is an expedited project within our program.

Mr. **Coughlin**. Do you have any preliminary findings that you can share with us?

Mr. **Tenley**. You need to look at it in context. We have several things working right now, including hydrostatic testing, pigging, and emergency flow restricting devices.

When taken together, I believe, there is a mix of requirements that may come out of that. We may want to look at, particularly, sensitive areas. Environmentally sensitive areas, areas of high population density. We are looking at that kind of interplay.

Mr. COUGHLIN. Another recommendation of this task force was that RSPA should be more aggressive in its pursuit of civil penalties for pipeline safety violations. Last year, RSPA indicated that more aggressive enforcement was now being pursued. Is this still the case? We hope you have not slacked off in using this enforcement tool.

Mr. DUNGAN. Our largest preliminary assessment against a firm was $217,250. The largest assessment by final order was $20,000. We finally collected $15,000.

These are just the cases that were closed out in 1989. So, there is a little bit of a lag time between our aggressive enforcement and the resulting increased collections. But we have taken that mandate very seriously.

CIVIL PENALTY ASSESSMENT TABLE

Mr. COUGHLIN. Please expand on your answer for the record and include an update of the civil penalty assessment table on page 539 of last year's hearing record.

[The information follows:]

CIVIL PENALTY ACTIONS ASSESSED AND COLLECTED

	Number	Amount preliminarily assessed	Number	Amount collected
Year:				
1977	7	$16,400	1	$700
1978	23	70,200	6	8,500
1979	20	46,450	21	26,800
1980	29	60,500	35	55,300
1981	6	14,750	4	7,250
1982	2	16,000	2	3,000
1983	3	21,000	5	19,500
1984	1	2,750	5	6,000
1985	8	12,000	11	56,500
1986	7	393,000	6	113,300
1987	20	641,500	9	391,000
1988	54	775,650	21	79,950
1989	45	512,950	30	102,300

	Average amount preliminarily assessed	Average amount collected
Year:		
1977	$2,342	$700
1978	3,052	1,416
1979	2,322	1,276
1980	2,086	1,580
1981	2,458	1,812
1982	8,000	1,500
1983	7,000	3,900
1984	2,750	1,200
1985	1,500	5,136
1986	56,142	18,883
1987	32,075	43,444
1988	14,363	3,807
1989	11,399	3,410

ERW FAILURES

Mr. COUGHLIN. In 1986, the Williams Pipeline Company experienced two failures in hazardous liquid pipelines manufactured using the electric resistance weld process. Following these failures, which were both along the weld seam, RSPA initiated an investigation of pipelines manufactured by the ERW process.

What were the results of this study? And how many existing pipelines are in high risk of accident from ERW seam failures? What needs to be done to mitigate the risk?

Mr. DUNGAN. This area is my personal top priority in the pipeline program. Essentially, the pipelines that carry hazardous liquids that were constructed before 1970 were grandfathered into the safety act without being hydrostatically tested. I believe it is very important that these pipelines, especially now that they are aging, become tested hydrostatically.

I have met with the leaders of both the oil and natural gas pipeline companies. They agree that this problem is out there. This particular type of pipe has had a number of seam failures. We did get the results of the study from the National Institute of Science and Technology. They essentially specified the particular type of pipe. It is a low frequency electric resistance welded pipe.

I would say somewhere between 30 and 40 percent of the liquid pipelines out there have not been tested. We plan on making that a top priority rulemaking.

Mr. LEHMAN. Mr. Coughlin?

Mr. COUGHLIN. Yes, sir.

Mr. LEHMAN. Let me ask you about welding. Are you a welder?

Mr. DUNGAN. No. But I spent part of my youth around welding machines.

Mr. LEHMAN. Are all these joints in these pipelines arc welded? How are they welded? Are they arc or are they——

Mr. DUNGAN. That is a good question. I believe they have very sophisticated techniques. I would be glad to get that to you.

Mr. LEHMAN. No matter what technique you have somebody is actually using that technique. And some welders are better than others.

Mr. DUNGAN. That is right. I believe before a new pipeline goes into operation that the welds are actually x-rayed so that it can be detected as to whether there has been any flaw in the welding.

Mr. TENLEY. When we lay a pipeline on shore we inspect a ten percent sample of the welds. Off shore we inspect 100 percent of welds.

But your question relates to what is coming out of the mill. How the pipe is actually joined.

Mr. LEHMAN. Yes.

Mr. TENLEY. In 1970, the process tended to be low resistance electric current welding as opposed to submersible arc welding. The concern we have is the first type, the low resistance. In 1970, it seemed to change to a high frequency.

Mr. LEHMAN. Whether you had the proper fusion of the metal or not?

Mr. TENLEY. Exactly.

Mr. **Lehman**. You don't know. Improper welding does not last too long.

Mr. **Tenley**. Exactly. ERW is a concern, Mr. Chairman. But again, while we do have a higher rate of failures in that type of weld, overall for the amount of pipelines that are out there, the number of failures is still relatively small.

ERW pipe is manufactured by a process wherein steel strips are continuously welded after being mechanically formed into tubular shapes. Low frequency current provides heat for fusion of the weld seam.

ERW ALERT NOTICES

Mr. **Coughlin**. Please expand on your answer for the record, and include copies of any alert notices issued to pipeline operators advising them of preventive actions which would lessen the likelihood or impact of ERW failure.

[The information follows:]

RSPA's ERW study provided the following data: 173 ERW seam failures occurred in hazardous liquid pipelines during 1968-1988 and 103 ERW seam failures occurred in natural gas transmission pipelines during 1970-1988. In addition, approximately 98% of the failures occurred on pipelines constructed prior to 1970 in which low frequency current was used for fusion of the seams. The National Institute of Science and Technology also studied ERW pipe and concluded that special standards do not appear warranted for the total pipeline system which contains segments of older ERW pipe.

RSPA has issued two Alert Notices advising pipeline operators of findings of factors contributing to operational failures of pipelines constructed with Electric Resistence Weld (ERW) pipe manufactured prior to 1970.

U.S. Department
of Transportation

Research and
Special Programs
Administration

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 28 1988

TO: ALL NATURAL GAS PIPELINE TRANSMISSION OPERATORS AND ALL HAZARDOUS LIQUID PIPELINE OPERATORS

The purpose of this letter is to advise you of recent findings relative to factors contributing to operational failures of pipelines constructed with Electric Resistance Weld (ERW) pipe manufactured prior to 1970. If you have such pipe in your pipeline system, the Office of Pipeline Safety recommends that you read the enclosed "Alert Notice" and take appropriate preventive steps.

Sincerely,

Richard L. Beam

Richard L. Beam
Director
Office of Pipeline Safety

Enclosure

ALERT NOTICE

The Office of Pipeline Safety (OPS) has data on twelve hazardous liquid pipeline failures that occurred during 1986 and 1987 involving pipe seams manufactured prior to 1970 by the Electric Resistance Weld (ERW) process. The purpose of this notice is to advise pipeline operators who have such pipe in their systems of the data currently available to OPS and of actions which the operator may take to reduce the risk of failure.

These recent failures have caused the OPS to reevaluate the safety of continued operation of all pre-1970 ERW pipelines. This reevaluation has included more definitive metallurgical examinations of failed ERW seams. Of particular significance to the OPS evaluation of ERW pipe is the failure of an 8-inch diameter pipeline in Mounds View, Minnesota. The Mounds View pipeline carrying gasoline which failed at 1434 psig had been hydrostatically pressure tested to 1900 psig just two years prior to this accident. An independent failure analysis conducted by Battelle Columbus Laboratories concluded that the cause of the Mounds View failure was selective corrosion in the ERW seam in an area of inadequate cathodic protection. Similar metallurgical tests have identified at least two other recent failures where selective corrosion of the ERW seam in an area characterized by coating disbondment and inadequate cathodic protection contributed to the cause of the failure.

Studies of available data by the OPS staff have shown that ERW seams have been involved in 145 service failures in both hazardous liquid and natural gas pipelines since 1970, and that of these failures, all but two occurred on pipe manufactured prior to 1970. Although definitive metallurgical examination of the failures, to establish cause, had not been done, selective seam corrosion appears to be a contributing cause of failure in a significant number of these incidents.

Past OPS regulatory and enforcement actions have resulted in hydrostatic testing of some ERW pipelines thus reducing the risk of seam failures. First, when the gas pipeline safety standards (49 CFR Part 192) were initially promulgated by OPS, natural gas operators were required to establish an upper limit on operating pressure for each pipeline. In many cases, the operator had to perform a hydrostatic test in order to qualify the pipeline for the desired pressure. Additionally, in 1980, the OPS promulgated new regulations for highly volatile liquid (HVL) pipelines (49 CFR Part 195) requiring operators of those pipelines to test all HVL pipelines to establish a maximum operating pressure not to exceed 80% of a previous operating or test pressure. Further, state or federal enforcement actions have required certain hazardous liquid pipeline operators to hydrostatic test a number of specific segments of their pipeline systems that had experienced ERW seam failures. Collectively, these actions involved the testing of thousands of miles of gas transmission, highly volatile liquid and other hazardous liquid pipelines. This testing resulted in the removal from service of several hundred joints of pipe having defective seams and provided additional assurance of the integrity of the remaining pipe in the tested pipelines. Pre-1970 ERW pipelines which were hydrotested have, in most cases, operated safely since they were tested.

Therefore, in view of these recent findings, OPS recommends that all operators reevaluate the potential for safety problems on their high pressure pre-1970 ERW pipelines. All operators who have pre-1970 ERW pipe in their systems should carefully review their leak, failure, and test history as well as their corrosion control records to ensure that adequate cathodic protection has been and is now being provided. In areas where cathodic protection has been deficient for a period or periods of time, the operators should conduct an examination of the condition of the pipeline, including close interval pipe-to-soil corrosion surveys, selective visual examination of the pipe coating, and/or other appropriate means of physically determining the effects of the environment on the pipe seam. If an unsatisfactory condition is found, or if a pre-1970 ERW pipeline has not been hydrostatic tested to 125% of the maximum allowable pressure, operators should consider hydrostatic testing to assure the integrity of the pipeline.

U.S. Department
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MAR - 8 1989

TO: ALL NATURAL GAS TRANSMISSION OPERATORS AND ALL HAZARDOUS LIQUID PIPELINE OPERATORS

The purpose of this letter is to advise you of additional findings since the January 28, 1988 "Alert Notice" relative to factors contributing to operational failures of pipelines constructed with Electric Resistance Weld (ERW) pipe manufactured prior to 1970. If you have such pipe in your pipeline system, the Office of Pipeline Safety recommends that you read the enclosed copy of the latest "Alert Notice" and take appropriate preventive steps.

Sincerely,

Richard L. Beam

Richard L. Beam
Director
Office of Pipeline Safety

Enclosure

ALERT NOTICE

On January 28, 1988, the Office of Pipeline Safety (OPS) issued an Alert Notice advising pipeline operators who have pipe manufactured by the Electric Resistance Weld (ERW) process of the occurrence of twelve hazardous liquid pipeline failures and of actions which operators may take to reduce the risks of similar failures.

The continuing failure of ERW seams remains a matter of concern to the Research and Special Programs Administration (RSPA). Since the issuance of that Alert Notice, the RSPA has data on eight additional hazardous liquid pipeline failures and one on a gas transmission pipeline involving pipe seams manufactured prior to 1970 by the ERW process. Of the eight additional hazardous liquid pipeline failures, two appear to be due to selective corrosion of the ERW seam. As stated in the 1988 Alert Notice, seams with selective corrosion occurring in an area of manufacturing defects may be particularly vulnerable to failure. However, the other failures appear to have resulted from flaw growth of manufacturing defects in the ERW seam.

Two of these failures resulted in some of the most significant spills (more than 20,000 bbls.) in recent years. Both of these failures involved pipelines which had not been hydrostatically tested in accordance with current standards. One of the failures occurred after the long-standing operating pressure had been increased a relatively short period of time before the failure. This increase in pressure clearly decreased the margin of safety between the operating pressure and highest pressure ever experienced during the life of the pipeline and contributed to the acceleration of the growth of a defect to failure.

The RSPA is planning to conduct research aimed at characterizing ERW defects and their growth rates for a variety of environmental conditions, in addition to the pipe having cathodic protection at less than standard pipe-to-soil potentials, coating disbondment, fatigue, and corrosion fatigue. If the research is successful, the resulting data could provide a basis for establishing criteria regarding when an ERW pipeline should be rehydrotested.

In view of the continuing ERW seam failures, OPS recommends that all pipeline operators having ERW pipelines installed prior to 1970:

(1) Consider hydrostatic testing all hazardous liquid pipelines that have not been hydrostatically tested to 125 percent of the maximum allowable pressure, or alternatively reduce the operating pressure 20 percent;

(2) Avoid increasing a pipeline's long-standing operating pressure;

(3) Assure the effectiveness of the cathodic protection system. Consider the use of close interval pipe-to-soil surveys after evaluating the pipe coating and corrosion/cathodic protection history; and

(4) In the event of an ERW seam failure, conduct metallurgical examinations in order to determine the probable condition of the remainder of the ERW seams in the pipeline.

ERW INSPECTION DATA

Mr. **Coughlin**. Has data on ERW pipe been entered into the PIPP computer system in order to focus inspection priority on this area of concern?

Mr. **Dungan**. It is in the process of being put into the PIPP system.

PIPELINE SAFETY RULEMAKING DOCKETS

Mr. **Coughlin**. How many pipeline safety rulemaking dockets are outstanding today and how does that compare to past years?

Mr. **Dungan**. There are 26 different rulemaking projects. Ten of these had Notices of Proposed Rulemaking published in the Federal Register. And four of those are a result from the Pipeline Reauthorization Act of 1988.

Mr. **Coughlin**. How many rulemakings required by the Pipeline Safety Act of 1988 are still outstanding?

Mr. **Dungan**. There are——

Mr. **Tenley**. Just one. The maps and inventory. Of those with a mandated time frame.

Mr. **Coughlin**. It seems as if a relatively large proportion of your rulemakings have slipped—why has this happened?

Mr. **Tenley**. One of the problems, I believe, is that we have had some attrition on the staff. We have lost some good people in the last two years. And it is hard to replace that level of ability with entry level people.

The other problem is that under the Reauthorization Act of 1988 eleven actions were imposed upon OPS, either studies, reports, or rulemakings. That has skewed our own planning.

Mr. **Coughlin**. That is a problem that really needs to be addressed.

Mr. **Tenley**. It sure does.

Mr. **Coughlin**. Hire more senior people.

Mr. **Tenley**. I certainly agree. I have only been on the job for three months. It hit me between the eyes when I walked in the door.

PIPELINE SAFETY DOCKET SCHEDULE

Mr. **Coughlin**. Please expand on your answer for the record and include a list of dockets and a realistic schedule for their completion.

[The information follows:]

Sections 102 and 202 of the Pipeline Safety Reauthorization Act of 1988 requires RSPA to issue regulations prescribing standards for operators of natural gas and hazardous liquid pipeline facilities to complete, maintain, revise, and provide information concerning those facilities, including an inventory of the pipe in the operator's system. The rulemaking has taken longer than anticipated due to the complexity of the rulemaking and our desire to appropriately address the standard set by Congress in the Act for this action—that we adopt requirements "to the extent practicable." This standard is particularly pertinent in this rulemaking action because of the potential for requiring more information than operators can reasonably be expected to provide, and more than is needed by either federal or state pipeline safety programs.

To this end, we felt it appropriate to combine these requirements with two rulemaking actions RSPA had already begun to develop that are related to the maintenance and availability of system information. One rulemaking involves proposals for operators to maintain essential information for dealing with emergencies. The other rulemaking would require hazardous liquid pipeline operators to submit safety data annually to RSPA, just as gas operators have long been required to do.

Although this approach has led to the delay in the actions required by the Act, the proposals we are developing will, when adopted, result in a comprehensive set of requirements on vital pipeline system information. We expect to issue a final rule by September 1990.

PIPELINE SAFETY FUND

Mr. COUGHLIN. You show a continuing balance of $17.53 million in the Pipeline Safety Fund year after year. Why is this not available for obligation?

Mr. DUNGAN. George?

Mr. TENLEY. In order for it to be available, it has to be appropriated. It cannot be released from the fund. If you picture the fund as being a glass of water going up and down as we drink from it, each year as receipts come in, the fund swells. As the payments go out, the funds goes down. But as you know, we are limited to 105 percent of the amount we are appropriated, in part, by this subcommittee.

Mr. COUGHLIN. That takes us to the Transportation Systems Center, Mr. Chairman.

TRANSPORTATION SYSTEMS CENTER

Mr. LEHMAN. Thank you, Mr. Coughlin.

The fiscal year 1991 budget requests a change in existing appropriations law to allow for the planning of a change in the federal status of the Transportation Systems Center in Cambridge, Massachusetts. Implementation of such a change would still be prohibited. This provision has been in place for several years due to the administration attempts in the early 1980s to privatize TSC.

Why do you now want to use funds to plan for a change in TSC's federal status—what exactly are your plans?

Mr. DUNGAN. Our interest is in developing the fourteen acres at the site of the TSC. The Secretary when he visited the TSC felt that TSC could be the base for a national transportation research and development center.

Mr. LEHMAN. Let me ask you to try to analyse what TSC is. Compare NIH to the Department of Health. Would TSC be like the NIH to the Department of Transportation?

Mr. DUNGAN. Well, TSC is rather unique because it is completely self-supporting. This year they will do $140 million worth of consulting projects. They have no appropriations.

Mr. LEHMAN. It is different.

Mr. DUNGAN. It is quite unusual. And I am actually not interested in getting appropriations because I like the fact that they know they have to respond to their clients.

Mr. LEHMAN. What would you say—since you have been with RSPA—what is the most valuable contribution that has come out of TSC to the benefit of Transportation that you have seen?

Mr. DUNGAN. It is very difficult to name just one. But they were very involved in the Secretary's National Transportation Policy Strategies.

RSPA was responsible for all of the cross cutting issues in the plan. Specifically; environmental concerns, national security, economic competitiveness and transportation for the handicapped.

On the FAA side, TSC developed the flow control system as well as the aircraft situation display that you might have seen that tracks every aircraft from take off to landing on a very large screen.

In the rail area, they are involved in some of the MX missile work for the Deparment of Defense. They do work for the Coast Guard in figuring out what types of——

Mr. LEHMAN. TSC has done this umbrella type work. In fact, what is a product that you can say, hey, we put this much into this and we produced a new gizmo that will do something better than anything that had been done before?

Mr. DUNGAN. I would say the flow control systems is a good example. Maybe Dick John, the Acting Director, would like to answer.

Mr. JOHN. At present, we are performing a lot of work for the Department of Transportation. Approximately one third of our work supports the Department of Defense.

I would say the most significant job we are doing for DoD at this time is to provide a bridge between civil sector transportation and distribution capabilities and defense requirements for the distribution and movement of personnel and goods.

I would like to put in for the record some of the studies that we have done for the Department and for DoD which have saved the Government several hundreds of millions of dollars.

[The information follows:]

EXAMPLES OF COST SAVINGS RESULTING FROM PROJECTS CONDUCTED BY THE TRANSPORTATION SYSTEMS CENTER

Buoy Tender Cost Avoidance. TSC recommendations permit savings to DOT/Coast Guard of $120 million from increased sharing of vessels across Coast Guard district boundaries.

Simplified Air Carrier Tariff Filing. TSC developed a new system of tariff filing by airlines for DOT's Office of International Aviation. Annual cost savings for the airlines of $50 million are resulting from the shift to electronic filing which replaced manual filing.

Liability for Accidents Attributed to Aircraft Wake Turbulence. Expert testimony by TSC's expert in wing-tip vortex phenomena aided significantly in defending the U.S. against various litigants. For the seven (of thirty) cases which came to trial the government was saved an estimated $70 million.

Rapid Development of System to Alleviate Air Traffic Congestion. Using innovative rapid prototyping and evolutionary system development TSC delivered an air traffic management system prototype about five years ahead of schedule. This enabled the FAA to suspend an $18 million later-phase effort and to plan more effectively for the long term future. The TSC-developed system enables major airports to better accommodate aircraft arrival flows and is being installed nationwide. Operational cost savings by airlines resulting from delay reductions attributed to this system are also acknowledged to be large, though difficult to determine precisely.

Management of Rail Maintenance. TSC is managing the rehabilitation of government-owned trackage for the U.S. Army Forces Command. By closely matching the level of rehabilitation to service requirements for the mobilization functions, and through an entrepreneurial approach to acquisitions TSC has reduced the program costs by one half, enabling estimated savings of $75 million.

Automated System to Manage Contract Deliverables. TSC has developed and is implementing an automated information system to enable the Defense Logistics Agency to replace its earlier labor-intensive manual process for managing the transportation of contractor deliverables to DoD destinations. With full implementation, the savings are projected to be $49 million.

Mr. LEHMAN. Are there actual deliverables? What are the products of this work? We have a Defense subcommittee appropriations staff person here.

Mr. JOHN. Let me expand on what Travis said a moment ago. In the case of the Federal Aviation Administration, we have been working on an aircraft situation display. That situation display has now been positioned in the different air traffic control centers around the country. It is actually being used to strategically manage airplanes that you and I fly. That system would be a specific deliverable.

Mr. DUNGAN. We are enhancing that system so that, for example, we can see whether there is military air space that might be available at certain times of day to help flow control around Los Angeles, where there is a lot of restricted air space.

Mr. LEHMAN. I don't think Mr. Dungan finished his answer to my question. So, you may continue.

Mr. DUNGAN. That question, is what exactly are we planning for TSC in that we are asking for a change in the language.

What we would like to do is develop the property around the site so that we can build a Transportation R&D center. What we would like to do first is explore the possibilities and examine the feasibility.

We did not feel that we could unilaterally go out and start doing planning. Even though I believe that the language was primarily inserted to counter the privitization effort under the last administration.

Mr. LEHMAN. Would not such a change in legislation also allow administration officials in DoT or OMB a loophole to plan, once again, to fully privatize?

Mr. DUNGAN. The Secretary and I believe the TSC is one of the crown jewels of the Department. I hope that we can convince OMB of that.

TSC EXPANSION OF R&D CENTER

Mr. LEHMAN. Expand on this issue for the record and provide some specific details and a schedule for this planning process.

[The information follows:]

Assuming approval of the language proposed by the Administrator, we would expect to perform a preliminary study of feasible alternative uses. While there are a number of unknowns in planning for this project, we would anticipate that the study would last through 1991.

After completion of the study, the proposal would require both the Office of the Secretary and OMB approval. It is hoped that the RSPA Administrator could discuss the results of the study with the Committee at next year's appropriation's hearing.

AUDIT OF TSC SMALL PURCHASES

Mr. LEHMAN. The IG recently reported on problems in small purchases at TSC. Some officials were signing contracts without the authority to do so; competition was sometimes circumvented; and dollar limits on purchasing were evaded by the practice of deliberately splitting the purchase into smaller orders.

What additional controls are needed at TSC to prevent such problems? What is being done to put them into place?

Mr. **Dungan**. All of the management staff at TSC have been briefed on this issue. We have developed a system by which we can make sure that purchase orders that are similar get red-flagged. If there is any type of problem, our systems can make us aware of it. We have made it very clear to the officials there that anything done that is illegal or is perceived to be illegal will result in discipline.

It is very important to me that TSC be run by the absolutely highest standards. I do not want to have such a valuable resource to fall because of some breach of integrity. I think everybody up there knows that. They want to be an active player in the transportation field. I don't think they will let us down.

PROPERTY MANAGEMENT AT TSC

Mr. **Lehman**. TSC is responsible for inventory accounting and control of in-use personal property at RSPA. The Inspector General's office is now investigating concerns that TSC has not established an effective property management system. Does TSC have a problem in this area?

[The information follows:]

No. As a result of the most recent 1987 OIG audit, TSC management placed increased emphasis on property accountability. In response to criticism of the contractor handling the function at TSC, a new contractor was brought in and is performing very satisfactorily. This on-site contractor conducts annual inventories of office furniture, store stockroom items, accountable personal property and inventory records which are reconciled to the general ledger. Currently, journal voucher entries are made to reflect changes in inventory balance and the subsidiary records of the property system are in agreement with the general ledger control balance. In addition, a semi-annual survey is conducted of excess property, discrepancies noted and reported.

Mr. **Lehman**. Mr. Coughlin, do you have any TSC questions before we move to the Office of Emergency Transportation?

Mr. **Coughlin**. No, sir.

EMERGENCY TRANSPORTATION OFFICE ROLE

Mr. **Lehman**. All right. You are requiring a ten percent increase in funding for the Office of Emergency Transportation. Is the main focus of this office to prepare for and respond to national defense emergencies?

Mr. **Dungan**. That has been the primary focus of this office. However, in light of the natural disasters this year, the visible role that Secretary Skinner took in going out to the disasters and in helping deal with some of the problems in each case, OET became very important as a conduit between the Secretary's Regional Emergency Transportation Coordinator. This is the person that actually represents the Secretary. For example, in San Fransisco after the earthquake, the fellow was Vice Admiral Robbins of the Coast Guard.

Vice Admiral Robbins would turn to RSPA to get answers to questions, to contact the other Modal Administrators. We would be the conduit between the emergency and the different players that are involved at headquarters.

Mr. LEHMAN. To continue that line. Compare what you do with FEMA, DoD's transportation command, and the other relevant agencies that would deal with emergency preparedness?

Mr. DUNGAN. FEMA has the primary responsibility dealing with regional or national emergencies——

Mr. LEHMAN. Unless they happen on a weekend.

Mr. DUNGAN. They focus on the entire problem. I mean, they do a lot of different things. They are supported by a lot of different federal agencies. We simply support them in the transportation area. For example, in the case of the earthquake, we had to find a way to subsidize the ferry service across the Bay to replace the Bay Bridge, which was damaged and out of service. We were able to find funds at the Federal Highway Administration because UMTA was not statutoraly allowed to provide an operating subsidy.

MOVEMENT OF PEOPLE DURING EMERGENCIES

Mr. LEHMAN. A few weeks ago I was watching 60 Minutes on the relocation of the people after the Chernobyl nuclear reactor accident—what a massive transportation problem that was.

If someday we may have something similar to that, a meltdown in this country, and you have to move several hundred thousand people or more hundreds of miles what would your office do?

Mr. DUNGAN. Well, we would help the Secretary deal with the Transportation response. This particular office maintains a data system that has, I believe, 186,000 records of transportation assets around the country. That would help us in figuring out how to respond to a specific emergency.

We, during the course of a year, participate in all types of exercise ranging from what would happen in case of the worst case scenario, nuclear war, to being involved in an earthquake-exercise. As a matter of fact, FEMA and our Office of Emergency Transportation were with the Vice-President's wife when they participated in the earthquake exercises that preceeded the quake by about six months. We were able to be very responsive because of that practice.

Mr. LEHMAN. And you are asking for ten percent more money and yet we assume world tensions are way down from what they were.

Mr. DUNGAN. Well, it seems like the cold war is winding down. But I think the potential is always there for ethnic conflict. We don't know what might happen in the Third World. There will always be national security reasons that we need to be prepared for.

Mr. DUNGAN. This office is changing from the focus on nuclear war, which certainly seems like it has a lesser risk for us now. And it is focusing on actual transportation emergencies——

Mr. LEHMAN. Or terrorism.

Mr. DUNGAN. Or terrorism. Exactly.

OET TRAINING

Mr. LEHMAN. How much funding is requested annually to train 800 individuals in transportation emergencies? Exactly what activities are conducted during this training and who participates?

[The information follows:]

The FY 1991 budget inclucdes $81,000 for DOT Emergency Organization (DOT EO) training. The training is intended to prepare the members of the DOT EO for their emergency assignments. The 1½ day program realistically simulates the DOE EO organizational structure and its operations. Training is usually conducted in a lecture-workshop-discussion format. During the workshops, trainees address actual problems which they might face while working in the DOT EO, presented in the form of simulated "messages." Thus, the emphasis is on an "on-the-job" style of training. In addition, participants receive briefings on new activities in the Department's emergency programs, current worldwide threats, and other topics of interest, to keep them "up-to-date."

Principal participants in our training include members of our National Defense Executive Reserve (NDER) from industry and DOT employees (called "mobilization designees") assigned to the DOT EO. In addition, representatives of the military, the Federal Emergency Management Agency, the Interstate Commerce Commission, and state and local emergency management agencies, and NDERs from other agencies usually attend.

Mr. LEHMAN. For the record, please expand on your answer and provide relevant statistics from past years. Include a breakdown of funds by curriculum development, training materials, travel cost, etc.

[The information follows:]

In calendar year 1989, OET conducted ten 1½ day training exercises, one in each DOT EO region. A total of 429 people participated, including 157 DOT NDERs from industry. A nearly identical level of participation occurred in CY 1988. The training is developed by contract, with extensive guidance from the OET program manager. For the 1989 sessions, the contract cost totaled $65,000, which included curriculum development, training materials and travel of the principal instructor. In addition, OET staff who assist in the training incurred travel costs of about $9,000.

CONTINUITY IN GOVERNMENT PROGRAM

Mr. LEHMAN. What is the "continuity in Government" program and what exactly is RSPA's role in it?

Mr. DUNGAN. The continuity in Government Program ensures that the United States Government can survive a nuclear attack. Many of the details are classified. Essentially, RSPA's role is in planning and coordinating DOT's participation in the continuity of Government Program. We could provide you with a briefing on the program in detail.

Mr. LEHMAN. Are you going to be part of the continuity of the Government flying up there with the 747s, or out here with us peasants?

Mr. DUNGAN. No. I think I end up somewhere in the country.

Mr. LEHMAN. You are expendable too?

EMERGENCY TRANSPORTATION DATA BASE

Mr. LEHMAN. You are requesting $110,000 for development of "new data systems and technology to provide for an effective DOT Emergency Transportation Data Base." What exactly is this, and what are its estimated total life cycle costs broken down by development, procurement, and support?

[The information follows:]

The DOT emergency transportation data base is comprised of a core inventory of modal facilities—air, transit, highway, rail and marine. Each file documents such information as type of facility, location, capacity and capability. The data base represents the most comprehensive available listing of transportation resources, containing approximately 180,000 records. This data base represents the key management tool for the Department's emergency managers to analyze civil transportation capacity under serious national security or domestic emergencies. Information about facilities in the data base becomes obsolete rather rapidly and must be continuously updated and expanded to reflect changes in inventory status, new mission requirements, and technologies. The associated software also requires updating to assure that the most effective current technology is incorporated to maximize processing capability. Additionally, the DOT data base is a component of other Federal information systems and must have the capability to make use of and be used interactively by these systems.

The $110,000 requested for the development of "new data systems and technology" is part of OET's ongoing research effort to enhance the capabilities of the data base and its application to emergency management. The funds are to be used to develop new systems for rapidly processing large volumes of data and other information. Planned enhancements include developing an effective graphics display and mapping capability, for the data base. Additionally, research will be conducted to identify new information to be included in the data base, such as DOD mobilization requirements, critical facilities identification, damage assessment and network traffic flow.

In addition to data base enhancements, research will be undertaken to improve the capability of the computerized document inventory system used for control of NATO and U.S. classified documents. Further, development of an Emergency Preparedness Reference System (EPRS) will continue. This "keyword" system will facilitate the use of comprehensive policy and operational documents in the chaos of emergencies.

The development of the OET data base and associated sysetems has been an ongoing evolutionary process over many years. Hardware, which wears out and becomes obsolete, is not involved. Therefore, it is difficult to assign a "Life" to the systems and quantify a "life cycle" cost. The enhanced processes funded under this item may eventually be overtaken by new technology or become conceptually obsolete. However, the time period cannot be clearly defined.

RSPA REORGANIZATION

Mr. LEHMAN. The Committee is advised that RSPA is proposing some changes to its organizational structure. Why do you propose them and why do you feel such changes would benefit your operation?

Mr. DUNGAN. We would accomplish a number of things in this proposal. This has actually not left RSPA yet for Departmental review, and I presume would also have to go through OMB review.

What we are trying to do is to make RSPA similar in structure to the other Modal Administrations. One thing we would do is elevate the pipeline safety and the hazardous materials transportation functions to Associate Administrators.

The reasons for that are my Office Directors frequently try to deal with their counterparts at other agencies. But their other counterparts are, perhaps, a rank above them. This would allow them to deal on an equal basis.

We also would set up a separate Associate Administrator for the research part of RSPA. That would include TSC, the airlines statistics function, and the Office of Research and Technology. It is just meant to make us similar to the other agencies of the Department and to help us in our daily negotiations with them.

Mr. LEHMAN. Please expand on your answer for the record, and include the current and proposed RSPA organization charts.

[The information follows:]

RSP's reorganization will move the organization into a similar structure to the other operating Administrations within the Department of Transportation. We are planning to consolidate several related functions under one Associate Administrator responsible for research, technology transfer, training, emergency transportation response, and airline statistics. In addition, the Deputy Administrator's positions will be established reflecting the remaining three major organizational entities.

Benefits of the proposed reorganization, include: streamlining reporting within RSPA (reduces from 10 to 7 the number of individuals reporting directly to the Administrator); providing direction under the Associate Administrator for Research, Technology, and Analysis for programs currently located in five offices; highlighting leadership roles for RSPA in hazardous materials and pipeline safety through new Associate administrators; creating Washington focus for the Transportation Systems Center; and establishing organizational structure and authority comparable to other Operating Administrations in DOT.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

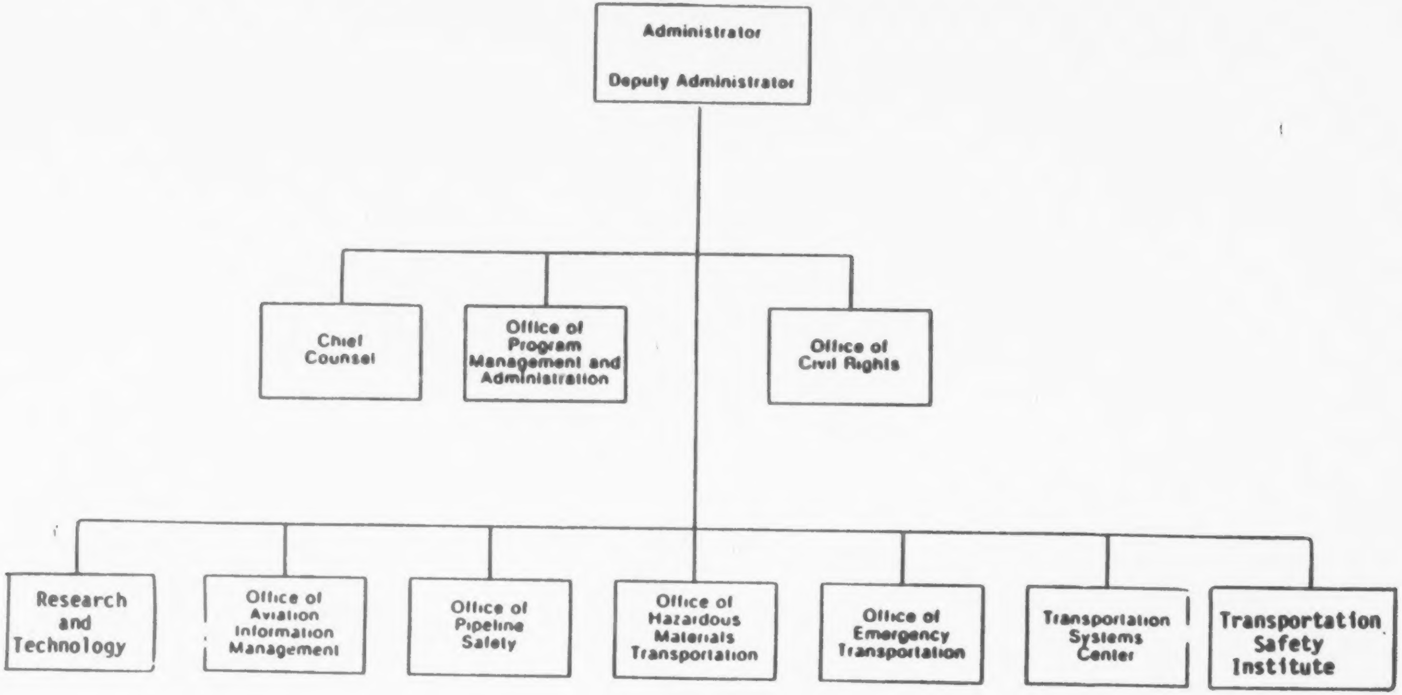
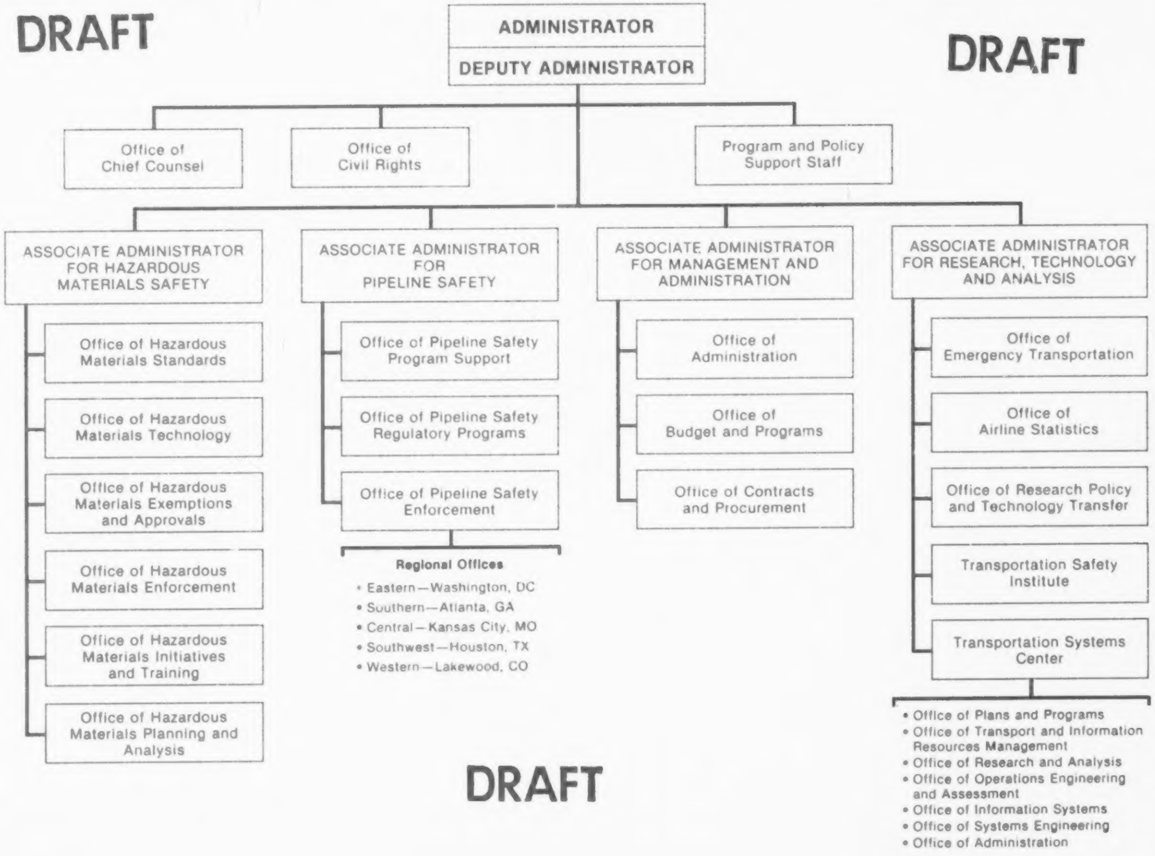

Administrator
Deputy Administrator
Chief Counsel
Office of Program Management and Administration
Office of Civil Rights
Research and Technology
Office of Aviation Information Management
Office of Pipeline Safety
Office of Hazardous Materials Transportation
Office of Emergency Transportation
Transportation Systems Center
Transportation Safety Institute

Figure A-2

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

DRAFT

DRAFT


ADMINISTRATOR
DEPUTY ADMINISTRATOR
Office of Chief Counsel
Office of Civil Rights
Program and Policy Support Staff
ASSOCIATE ADMINISTRATOR FOR HAZARDOUS MATERIALS SAFETY
Office of Hazardous Materials Standards
Office of Hazardous Materials Technology
Office of Hazardous Materials Exemptions and Approvals
Office of Hazardous Materials Enforcement
Office of Hazardous Materials Initiatives and Training
Office of Hazardous Materials Planning and Analysis
ASSOCIATE ADMINISTRATOR FOR PIPELINE SAFETY
Office of Pipeline Safety Program Support
Office of Pipeline Safety Regulatory Programs
Office of Pipeline Safety Enforcement
Regional Offices
• Eastern—Washington, DC
• Southern—Atlanta, GA
• Central—Kansas City, MO
• Southwest—Houston, TX
• Western—Lakewood, CO
ASSOCIATE ADMINISTRATOR FOR MANAGEMENT AND ADMINISTRATION
Office of Administration
Office of Budget and Programs
Office of Contracts and Procurement
ASSOCIATE ADMINISTRATOR FOR RESEARCH, TECHNOLOGY AND ANALYSIS
Office of Emergency Transportation
Office of Airline Statistics
Office of Research Policy and Technology Transfer
Transportation Safety Institute
Transportation Systems Center
• Office of Plans and Programs
• Office of Transport and Information Resources Management
• Office of Research and Analysis
• Office of Operations Engineering and Assessment
• Office of Information Systems
• Office of Systems Engineering
• Office of Administration

DRAFT

REGULATION OF RADIOACTIVE MATERIAL

Mr. **Lehman**. You mentioned radioactive materials, radioactive waste. I think that is one of your transportation problems. What is your role in the regulation of this kind of material.

I know that, for instance, in New Mexico, up at Los Alamos, there is radioactive waste in those mountains near Santa Fe. What might happen and what are you doing about it?

Mr. **Dungan**. Well, we get very involved in this area. In fact, I believe that Al and I will be going out to a couple of those sites in April.

As far as specifics with the Department of Energy, I think Al can probably address how we relate to them in dealing with the transportation issues.

Mr. **Lehman**. Probably radioactive waste is the single most potential hazard that, for the size of it and the possibility compared to a pipeline breakage, is so much more.

Mr. **Roberts**. Mr. Chairman, we have a very extensive regulatory system pertaining to the transportation of radioactive materials. We are quite satisfied that they provide an adequate level of safety for their movement in Commerce.

We assist the Department of Energy on their implementation of the Nuclear Waste Policy Act—there is a role to be played by the Secretary of Transportation in that activity. Even though it is a long way off, there is a constant dialogue and investigative process ongoing, I might say. relative to the implementation of the NWPA.

Of course, the site selection activity, for example, at Yuca Mountain, is a matter not directly within our purview. Our concern would be the routes and the transportation safety system employed in moving the materials to a repository.

In the low level area we have been quite involved in working with not only the Department of Energy, but also the Nuclear Regulatory Commission relative to the waste isolation pilot project in Carlsbad, New Mexico, the selection of the carriers and also the overall safety system for transportation of the materials.

We handle the low level packaging requirements for all of the agencies while we rely on the expertise of the Nuclear Regulatory Commission for standards and the approval process for the nuclear casks for the so called high level radioactive materials.

Mr. **Lehman**. Keep working on that. Mr. Coughlin.

AVIATION INFORMATION MANAGEMENT

Mr. **Coughlin**. Thank you, Mr. Chairman.

Your Office of Aviation Information Management provides comprehensive financial data on the individual air carriers' operations of the air transportation industry. On the health of the air transportation industry, do we have any other airlines getting ready to go belly up?

Mr. **Dungan**. It is interesting. We are responsible for actually collecting the raw data and putting it into reports which can be used by the FAA and the Office of Secretary of Transportation to use for policy decisions.

As much as I would like to because of my interest on this subject, it is really not RSPA's role to analyze the financial conditions and give you an answer.

Mr. COUGHLIN. Are the financial conditions of any in the red?

Mr. DUNGAN. Yes.

Mr. COUGHLIN. Who?

Mr. DUNGAN. I believe that Texas Air—their loss for last year was $800 million. We can get specifics for the record.

Mr. COUGHLIN. Can you provide for the record which airlines are operating in the red?

Mr. DUNGAN. Sure. We would be glad to. I am not trying to not answer your question. It is just that I am very leery of taking data that other people used for policy decisions. I don't want to contradict.

Mr. COUGHLIN. I am not trying to get the policy. I am just trying to get the facts.

[The information follows:]

Majors and national carriers, operating in the red for the 12-months ended September 30, 1989 as reprted to the Department in the Form 41 report, are as follows:

Majors (12 in Group): Continental, Eastern, Pan, American, TWA, USAir.[1]

Nationals (17 in Group): Braniff, Hawaiian, Trump,[2] Zantap.

Mr. COUGHLIN. Given all of the activity in the aviation mode, is this an area where your work load is significantly increasing?

Mr. DUNGAN. Actually, no. We need at least one additional staff person in the area. But because of deregulation, the work has actually been decreasing. We are starting to see a little increase as we get into some more complicated issues such as foreign airlines investing in U.S. airlines. We are staffed at a reasonably good level in this area. When this office was part of the CAB it was much larger.

Mr. COUGHLIN. I take it a lot of this works on ADP?

Mr. DUNGAN. That is right.

Mr. COUGHLIN. Is that contracted out or in house?

Mr. DUNGAN. We attempted to contract a lot of this work out. We found that we weren't able to get the quality of work that we needed. There were two problems. One was that the contractors generally had a high turnover. The second problem was that the contractors did not have the institutional knowledge. Many of our people came over from the CAB. Because of those reasons, we have made the decision not to contract out some of the things we have done over the past few years. We have cut the contact funds out of one side of the budget and asked for one additional person for this year.

Mr. COUGHLIN. Thank you, Mr. Chairman.

Mr. LEHMAN. Thank you, Mr. Coughlin.

We will move to the justifications.

INCREASE OF POSITIONS FOR OPERATIONS & PIPELINE SAFETY

Mr. LEHMAN. For Fiscal Year 1991, you are requesting an increase of 17 positions in operations and pipeline safety and a decrease of three positions at the Transportation Systems Center. Please explain each of these changes.

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[1] Includes two months of the combined USAir and Piedmont operation.

[2] Trump's data covers only four months and are confidential pending action on its petition for confidentiality. It began operations in June 1989.

Note: Majors are defined as carriers who have operating revenues over $1 billion. Nationals have operating revenues between $100 million and $100 million and $1 billion. Majors and nationals account for approximately 95 percent of the industry's operating revenue.

[The information follows:]

Eight of the 17 positions requested are in the Research and Special Programs (RSP) appropriation and 9 are in the Pipeline Safety (PS) appropriation. The RSP positions are described as follows:

Two positions in the Office of the Chief Counsel.

These positions are necessary to support: The increased level of enforcement in both the Hazardous Material Safety and Pipeline Safety programs; and the transfer of the Research and Special Programs Administration (RSPA) contracts and procurement function from the Transportation Systems Center (TSC) to headquarters.

Three positions in the Office of Program Management and Administration to establish the contracts and procurement function and the Civil Rights function into this office.

One position in the Office of Aviation Information Management for necessary ADP applications maintenance and development projects essential to ensure the continued reliability, timeliness and accessibility of aviation economic data.

Two positions in the Office of Hazardous Materials Transportation (OHMT) for hazardous materials transportation safety inspectors.

The Pipeline Safety positions are described as follows:

Eight of the positions are necessary for pipeline safety enforcement—six positions will be assigned to the pipeline safety field offices and two positions will be assigned to the headquarters pipeline safety enforcement office. The eight positions will be distributed as follows: Two field positions will be assigned to the Western Region; three field positions are requested for the Southwest regional office: One position is requested for the Central Region Office: and two positions are requested for the headquarters office to support the State Operations unit in the management of technical support material required by this office.

One engineering position performs rulemaking functions associated with developing, amending, interpreting, and waiving the Department's gas and hazardous liquid pipeline safety standards, and related information collection requirements.

FY 1991 PCP REQUEST

Mr. LEHMAN. For the record, explain how you arrived at your fiscal year 1991 budget request for personnel compensation and benefits (PCB) and include criteria, assumptions and formulas used in making that estimate.

[The information follows:]

The PCP requests for each office are derived from that level of funding which supported the FY 1990 enacted level. The increase for within grade raises, performance awards, health benefits, the Federal Employees Retirement System (FERS), annualization of the FY 1990 pay raise and funds for a 3.5-percent pay raise effective January 1, 1991 are then added to that base. At the appropriation level for the FY 1991 pay raise, 50 percent of the costs are included and 50 percent has been absorbed, thereby reducing other objects.

The assumptions, criteria and formulas for each of these areas as appropriate is provided below:

The increase for within grade raises, performance awards, health benefits and the FERS is determined by using an inflation factor of 0.04. This amount was then added to the base.

The annualization of the calendar year 1990 pay raise that falls within the first quarter of FY 1991 (period from October 1, 1989 through December 31, 1989, or one quarter of the FY 1990, pay raise amount multiplied by the FY 1989 PCB base.)

The inclusion of the FY 1991 general pay raise was determined by multiplying the FY 1990 base PCB by ½ of ¾ of 3.5 percent or .5 x .75 x .035 x (the FY 1990 base).

GSA RENTAL SPACE

Mr. LEHMAN. You request a 13 percent increase in GSA rental payments. This follows a 35 percent increase in fiscal year 1990. How do you justify such a large increase? How much additional space will you be renting in fiscal year 1991? And how much of the increase is attributable to price increases on existing leased space?

Mr. **Dungan**. Well, I believe we have no choice or control over the rental that GSA charges us. All we are doing here is passing through the 13 percent increase.

Mr. **Lehman**. What amount would be required in fiscal year 1991 if GSA rent was held to a 4 percent increase?

[The information follows:]

The amount would be $1,557,000.

OTHER SERVICES

Mr. **Lehman**. Your "other services" request declines significantly in fiscal year 1991 from $7.7 million to $5.7 million. What are you cutting out and what impact will it have on your operations?

[The information follows:]

The reduction in "other services" object code 25.0 as shown on the Object Classification chart, is the net effect of several large reductions and the absorption of ½ of the FY 1991 pay raise in "other objects".

The large reductions are (1) reductions in the Aviation Information Management program funds as a result of work completion, (2) reductions in the Emergency Transportation data base maintenance cost, and (3) reductions in the Hazardous Materials Transportation program funds primarily due to not printing the Emergency Response Guidebook in this budget year.

WORKING CAPITAL FUND

Mr. **Lehman**. In several offices you show an increase in costs for the Working Capital Fund (WCF). What are these additional funds for?

Mr. **Dungan**. These are departmental overhead funds. They cover things such as the parking, messenger service, transportation of the Secretary, a number of other items. But again, it is a number that is arbitrarily assigned to us to cover.

Mr. **Lehman**. For the record, provide a listing of WCF costs budgeted for both fiscal year 1990 and fiscal year 1991 by RSPA office and explain each of these differences between the two fiscal years.

[The information follows:]

The following dollar amounts of WCF are provided for each of the offices within the RSPA. (These amounts do not reflected WCF charges for rent to GSA; communications, utilities, and miscellaneous charges; and printing which are listed separately in the budget.)

	Fiscal year	
	1990	1991
Office:		
Administrator	$15,000	$19,000
Chief Counsel	16,000	24,000
Management and Administration	29,000	41,000
Aviation Information Management	38,000	53,000
Emergency Transportation	20,000	27,000
Hazardous Materials Transportation	124,000	183,000
Research and Technology	15,000	19,000
Pipeline Safety	180,000	221,000

The WCF total is provided to RSPA by the Office of the Secretary and is then apportioned to the offices based on the number of people in the office to the total population of the Research and Special Programs (RSP) or Pipeline Safety (PS).

REQUEST FOR RSPA DEPUTY DIRECTOR

Mr. **LEHMAN**. You are requesting an additional position to fund a RSPA Deputy Director. Obviously, you currently have a Deputy Director. How is this position funded in fiscal year 1990. Why is a change in funding requested?

Mr. **DUNGAN**. Under my predecessor there were two Deputy Administrators. One was also the Chief Scientist. And other one was the Deputy for Operations.

We have taken that Chief Scientist position, which was part of the Office of Research and Technology and we are using that for the Deputy.

What we seek in the budget is simply the form—we are letting you know that this is the way we would like to handle it. We would like to be straightforward rather than take people out of other offices.

TRAINING FOR ADMINISTRATOR'S OFFICE

Mr. **LEHMAN**. And the $2,000 for training in the Office of the Administrator. What type of training is planned?

Mr. **DUNGAN**. Those are for our word processors. We need to train a few people.

ATTORNEY POSITION INCREASE

Mr. **LEHMAN**. You are proposing to hire two additional attorneys for the office of chief counsel. However, your PCB increase is only $125,000, which is $62,500 per attorney. At what GS level are these two positions?

Mr. **DUNGAN**. We have not come to a decision on that yet. Given the workload that we have, we may well want to hire at a higher grade rather than a lesser grade because of the nature of the work we need to get done.

Mr. **LEHMAN**. You will let us know?

Mr. **DUNGAN**. Certainly.

GRADE LEVELS IN CHIEF COUNSEL'S OFFICE

Mr. **LEHMAN**. For the record, state the GS levels of the existing nine positions in this office.

[The information follows:]

SES	1
GM-15	1
GM-14	3
GS-12	12
GS-9	1
GS-7	1

GRADE LEVEL OF REQUESTED ATTORNEY POSITIONS

Mr. **LEHMAN**. You forecast a near doubling in the number of referred cases between fiscal year 1989 and fiscal year 1991. Are an additional two junior attorneys enough to handle this increase?

Mr. **DUNGAN.** We believe they can handle the situation. We would rather ask for the number of people that we can integrate into the office easily rather than asking for a large number. If the work load is such that there would be an increased backlog in the Chief Counsel's office, we would come back next year and ask you again.

Mr. **LEHMAN.** In the meantime, update the information to our Committee.

Mr. **DUNGAN.** Sure.

ADMINISTRATIVE COSTS FOR CHIEF COUNSEL

Mr. **LEHMAN.** Explain in detail the increased administrative costs for the Office of Chief Counsel in fiscal year 1991.

[The information follows:]

The requested increase of $18,000 in administrative costs includes $10,000 in adjustments in rental payments to GSA and working capital fund. These adjustments are set by GSA and the Office of the Secretary on a pro rata basis, and we do not have any control over them. The remainder of the increase consists of $5,000 in travel (offset by a reduction of $1,000 in transportation of things) and $4,000 in training. The travel increase is necessary to support the hazardous materials and pipeline safety enforcement programs. Attorneys serve as presiding officials at informal conferences and informal hearings. The amount requested is intended to reflect the increased enforcement workload and reduce the Office's reliance on client offices to fund necessary travel. The requested increase of $4,000 in training is to provide subject matter training for the five attorneys and one paralegal specialist hired over the last three years, as well as the two new positions to be hired in FY 1991. Training is needed in such areas as environmental law, administrative law (Federal practice), and procurement.

TRAINING FUNDS FOR CHIEF COUNSEL

Mr. **LEHMAN.** You are requesting $4,000 for training in the Office of Chief Counsel. Such funds have not been requested before. Why do you need them now?

Mr. **DUNGAN.** We didn't have the funds before. We have been deferring an awful lot of training. One area where we really have a critical need is acquisition. For some reason RSPA's procurement function was handled out of TSC in Boston. That proved to be a very unwieldy process. We have moved procurement back to headquarters. But we need to train a lawyer to handle procurement type issues. There are a few other specialized areas that our lawyers need to learn more about.

TSC TRANSFER OF PROCUREMENT FUNCTION

Mr. **LEHMAN.** You request three new positions in fiscal year 1991 to transfer procurement functions from TSC to the Washington office. Why shouldn't we leave these activities at TSC where the costs are covered by reimbursable orders? What are the exact duties of each of these three positions?

[The information follows:]

In an effort to streamline operations and reduce operating costs, the headquarters contracts and procurement function was transferred to the Transportation Systems Center in Cambridge in late 1985. Separating the requesting office from the servicing unit severely hampered communications and resulted in a general degradation of service to Headquarter's clients in having their contractual requirements fulfilled. We are therefore requesting three new positions be transferred from TSC and that funding for the positions be included in RSPA's PC&B budget approved by Congress.

The duties of the three positions include:

Contracting Officer: directs the entire contracting operation and authorized to enter into and administer contracts on behalf of the Government;

Contract Specialist: performs the full range of duties associated with the pre-award and post-award phases of the acquisition process; and

Purchasing Agent: performs the full range of duties associated with the small purchases (less than $25,000) process.

INCREASE IN ADMINISTRATIVE COSTS

Mr. **LEHMAN**. Administrative costs in this office are also up 17 percent, including a 33 percent increase in printing and training costs, and a 50 percent increase in supplies. Why are such increases necessary?

Mr. **DUNGAN**. Rose, would you like to address that?

Ms. **MCMURRAY**. Mr. Chairman, we are requesting additional funds in the training category in order to keep our work force apprised of developments in new software packages and especially in the administration area we are required to submit our budgets using Lotus and other software packages. We need that additional funding for training.

In the supply and printing area, the Administrator mentioned the return of the procurement function to Washington. The printing category will be increased to cover the cost of new training manuals, new forms, and other directives we need to publish to support the work force.

NATIONAL TRANSPORTATION STATISTICS AND TRANSPORTATION SAFETY REPORTS

Mr. **LEHMAN**. The justification states that $100,000 "is the minimum necessary" for the preparation, publication, and distribution of the National Transportation Statistics and Transportation Safety reports. Please provide the following data: a breakdown of those costs by preparation, publication, and distribution; the numbers of each report published and the unit cost of each type of report; a breakdown of recipient by Federal, state, other government, academia, private organizations, etc.; and estimated reimbursement from the sale of these documents.

[The information follows:]

The following table is provided to describe the costs of the two publications for the FY 1989.

	NTS	TRANIS
Preparation	$57,000	$47,000
Publication	7,000	4,000
Distribution	3,000	2,000
Number published	1,640	680
Unit cost	40.85	77.94
Distribution:		
Federal/executive branch	606	319
Congressional	176	140
State/local	0	96
Academia	5	29
Superintendent of Documents	600	0
National Technical Information Service	0	30
RSPA/TSC	150	3

The volume of Government Printing Office sales as of March 2, 1990, for the NTS is 530 at $11 per copy ($5,830). The money is not reimbursed to RSPA. The volume of NITS sales for the TRANIS is 30 per year at $23 per copy ($690). The money is not reimbursed to RSPA.

DRUG TESTING

Mr. **Lehman**. Please explain your request for "drug awareness and internal testing", a new budget item for fiscal year 1991.

Mr. **Dungan**. This is the cost to us to running our drug testing program within RSPA. As we have asked the industries that we regulate to test, we also have our own testing program.

Mr. **Lehman**. Random?

Mr. **Dungan**. It is random. Yes, sir.

Mr. **Lehman**. And mandatory?

Mr. **Dungan**. It is mandatory. Yes. As a matter of fact, I was pre-employment tested and I also got randomly called recently.

Mr. **Lehman**. And the drug awareness part of that?

Mr. **Dungan**. I think that is to pay for videos and basic education material.

AVIATION INFORMATION MANAGEMENT

Mr. **Lehman**. Explain why an additional staff-year is needed in this office.

[The information follows:]

One additional position is needed to expand our core staff of ADP technical experts from four to five positions. The position is needed to accomplish essential maintenance on computer systems and developmental work. The backlog of maintenance and new developmental projects has grown to an unacceptable level and must be staffed.

Mr. **Lehman**. Why couldn't this work be contracted out?

[The information follows:]

Computer systems maintenance and developmental work has been delayed and deferred in past years because our attempts to use contractor staff have not been successful. These failures were due to the contractor's lack of institutional knowledge and their job mobility. As a result, the contractors could only be productive on user servicing from existing data bases where time was not a critical factor. We will continue to require the one remaining contract ADP technical position to maintain the user services workload.

Mr. **Lehman**. Expand on your answer for the record citing relevant workload statistics.

[The information follows:]

The following ADP technical workload is expected for FY 1991:

Workload	No. positions	
	Contract	Federal
Service user's ad hoc special projects	1.0	0.2
Backlog-user projects not served	.5	.5
Maintain db software environment	.0	.3
Maintain systems/develop applications	.0	2.5
Backlog-maintenance/development work	.0	1.0
Technical leadership and supervision	.0	.5
Total workload	1.5	5.0
Resources available	1.0	4.0
Backlog-workload not staffed	.5	1.0

To offset the increase in PC&B and administrative costs for this one additional staff position, we have reduced by $56,000 our request for basic Aviation Information Management (AIM) program funds previously used to obtain a support person from the contractor.

AVIATION INFORMATION MANAGEMENT COMPUTER SYSTEM

Mr. **Lehman**. You are also upgrading the computer systems in this office, including a major purchase of optical imaging and microform technologies. Provide a total funding profile of this activity year by year, provide a list of the hardware items to be purchased, and explain what specific benefits will be realized by the upgrade.

[The information follows:]

Work on this project in FY 1990 to date has mainly consisted of reassessment of the potential benefits to be derived from each potential sub-part of the project, to adjust our priorities and plans as the year unfolds and available funding becomes clearer. At this time we have only $188,000 available for FY 1990, a substantial reduction from the $464,000 originally envisioned, due in part to Congressional action which reduced funding to $304,000, and due in part to G–R–H sequestration guidelines that were assessed to this project. Also, in FY 1991, the $236,000 originally envisioned has been reduced to only $24,000 in the President's budget request.

A second factor that has limited work on this project has been the need to service major ADP requirements for the Secretary's study of airline competition and service, and the subsequent late start on development of the new T–100 computer system that is now our primary focus.

In view of the limited funds actually available in FY 1990 and FY 1991, and our delayed start due to other higher priority projects, we have tentatively decided to use the funds to upgrade our manual reports handling procedures as well as systems for archival storage and user retrieval of reports and computerized data. Contractual services of the Transportation Systems Center (TSC) will be used to study and recommend alternatives, and to plan, design, select and implement systems. TSC will be used for this work because they are already active in the design and development of similar, Department-wide standard office automation and data dissemination systems for the Office of the Secretary. A schedule of hardware requirements has not yet been developed. The benefits of this subproject will be to modernize our reports control and document storage systems, avoiding the need for future staff or space increases to maintain access services for DOT and public users.

If funds are available after the above sub-project is funded, we will work on enhancing our personal computer systems and facilitate remote user access to airline data. The Form 41 financial reports will be the target of our efforts. The benefits of this sub-project will be to improve the efficacy of our computerized Form 41 financial data systems. We expect to avoid the future need for increased funds to transcribe and maintain Form 41 data, and substantially improve OST and FAA user's access to both digital data and to report forms.

In view of the limited funds provided in the first two years for this computer systems modernization project, we anticipate a request for additional funds in FY 1992, comparable to the FY 1990 funding level, to continue this developmental project.

REIMBURSABLE AGREEMENTS

Mr. **Lehman**. Your justification assumes reimbursement of $500,000 from the FAA and $95,100 from the non-Federal users. How do these assumptions compare for the past three years?

Mr. **Dungan**. I believe that these are about the same as what we have seen in the past several years. These numbers have been right on target. We just have not changed them.

NEW EQUIPMENT FOR OET

Mr. **Lehman**. Provide a list of the new equipment needed for the "new DOT Headquarters alternate emergency site", and corresponding costs by budget year.

[The information follows:]

The Departmental Headquarters alternate emergency site for the Secretary and his staff is shared with the headquarters element of the Federal Aviation Administration (FAA) and managed by that agency. The existing facility is considered inadequate by FAA and they are currently seeking a new site from among surplus Federal facilities. Until this search is complete and design of the new facility undertaken, we are uncertain as to the funding burden on RSPA. However, most, if not all of the equipment at the current site can be transferred to the new facility. FAA will absorb most new equipment costs. Therefore, it is anticipated that the only costs associated with a new site are minor upgrades to the DOT/OET high frequency radio unit to enhance compatibility with other stations in the OET network, an updated microcomputer not currently available at the site, and, perhaps, minor renovations or alterations to office space designated for the Department. Costs are not expected to exceed $10,000 in FY-1991 and a similar amount in FY-1992, assuming a new site is identified this year.

STU-III SECURE TELEPHONES

Mr. LEHMAN. How many STU-III secure telephones are being procured? What are their unit costs and why are they needed? In an emergency, why would civil transportation-related communications need to be secure?

Mr. DUNGAN. Well, one reason is that national security can still be at stake even if the cold war is winding down. There may be other situations in which we would have to be discussing classified information.

Because of the way the Transportation Department would support DOD during a crisis to get airplanes from the airlines for military use—these programs involve certain classified elements. That is the reason we seek those phones. The phones are portable. They can be taken to a crisis action center.

Mr. LEHMAN. How many phones are you talking about?

Mr. DUNGAN. Just two.

Mr. LEHMAN. How much are they?

Mr. DUNGAN. I believe $2,000 each. I think.

OVERSEAS TRIPS

Mr. LEHMAN. Provide a list of all overseas trips taken by this office over the past two years, the number of personnel, the trip cost, and a brief rationale for the trip.

[The information follows:]

FISCAL YEAR 1988

November 1-8, 1987	Brussels	three persons	$2,915

Represent the U.S. at the Fall Plenary meeting of the NATO Civil Aviation Planning Committee (CAPC) and confer with NATO International Staff and U.S. Mission on civil aviation matters.

January 23-30, 1988	Brussels	three persons	$3,985

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC.

April 23-29, 1988	Brussels	two persons	$2,165

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC.

June 1-3, 1988	Ottawa	two persons	$1,205

Attend the 1988 NATO "SHAPE Movements Conference."

June 4-11, 1988	Brussels	four persons	$3,855

Represent the U.S. at the Spring Plenary of the NATO CAPC and meetings of its technical subgroups. Confer with NATO International Staff and U.S. Mission on civil aviation matters.

September 5-7, 1988	Ottawa	two persons	$1,320

Chair the annual meeting of the U.S./Canada Emergency Planning Committee for Civil Transportation.

September 10-18, 1988	Brussels	two persons	$2,075

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC.

FISCAL YEAR 1989

November 5-12, 1988   Brussels   five persons $4,505

Represent the U.S. at the Fall Plenary of the NATO CAPC and meetings of its technical subgroups. Confer with NATO International Staff and U.S. Mission on civil aviation matters.

January 13-21, 1989   Brussels   three persons $3,965

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC.

March 29-31, 1989   Ottawa   one person $510

Attend the annual meeting of the joint U.S./Canada committee on emergency exercises.

April 14-21, 1989   Brussels   two persons $2,155

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC.

April 30-May 3, 1989   Ottawa   two persons $1,230

Attend the 1989 NATO Civil Emergency Planning Symposium.

June 3-12, 1989   Brussels   five persons $6,315

Represent the U.S. at the Spring Plenary of the NATO CAPC and meetings of its technical subgroups. Confer with NATO International Staff and U.S. Mission on civil aviation matters and attend a planning meeting for exercise WINTEX/CIMEX 91. One person continued to Bonn to confer with German aviation officials on the "safe haven" program.

September 8-15, 1989   Brussels   two persons $2,595

Represent the U.S. at a series of meetings of the technical subgroups of the NATO CAPC. One person continued on to High Wycombe, UK, for a meeting on 1990 training for NATO civil aviation personnel.

NATO EXERCISE WINTEX/CIMEX 91

Mr. **Lehman**. How much funding is requested for the OET participation in Exercise Wintex/Cimex 91? What is OET's role?

Mr. **Dungan**. The particular exercises are in progress right now. What are trying to do is come up with scenarios that reflect the current environment as opposed to the previous situation.

I do not have the dollar figure here. Were you asking for the dollar figure?

Mr. **Lehman**. How much funding?

Mr. **Dungan**. I can provide that for the record.

[The information follows:]

NATO Exercise Wintex-Cimex 91 is being developed by the NATO International Staff, in cooperation with Alliance nations. Current events in Europe and the sensitivities of member states such as the Federal Republic of Germany are driving changes to the traditional structure of Wintex-Cimex exercises. Until the exercise design is complete and its impact on the U.S. can be assessed, it is difficult to accurately define OET's role and quantify costs. However, costs have always been modest, even in past "full-blown" NATO exercises.

Based on preliminary information, OET could expect to be involved in two elements of the exercise:

1. Providing four U.S. designees to the simulated wartime NATO Civil Aviation Agency operating in the United Kingdom (U.K.)
2. Staffing a simulated U.S. National Civil Aviation Information Center for several days during the exercise.

In addition, OET staff will process exercise message traffic as part of their daily routine.

Travel costs for the designees to the U.K. are borne by NATO. Therefore, our budget for Wintex-Cimex 91 is estimated as $4,800 for salary costs and $800 for travel.

Mr. **Lehman**. Provide a description of each of the 10 positions in the Office of Emergency Transportation and list their GS level and the level of experience of current incumbents.

[The information follows:]

The approved organization for the Office of Emergency Transportation includes 10 positions, 7 professional and 3 clerical. These positions, and information on the incumbents and their experience, are:

- Director, GM-15. Provides the overall management direction of the office resources and program. The Director also serves as Departmental Emergency Coordinator.

  Incumbent: Lloyd E. Milburn. Managed multi-modal transportation operations and developed military strategic mobility policy and plans for over 22 years. Joined DOT in 1975, managed elements of DOT's program to reduce loss of goods to theft from civil transportation systems. Reassigned to OET in 1978, served as Chief, Operational Readiness Division (see description below). Appointed as Director in December 1985.

- Chief, Resource Management Division, GM-15 Responsible for development of the Department's programs to manage civil transportation resources in the full range of emergencies. Prepares plans for response to domestic emergencies, such as earthquakes and nuclear power plant accidents. Directs the Department's involvement in DOD strategic mobility and defense requirements analysis.

  Incumbent: Elvin W. Sill, Jr. Joined DOT in 1967. In 1968, transferred to the new Office of Pipeline Safety as a Program Analyst. From 1970 to 1978, served as Administrative/Executive Officer for the Assistant Secretary for Environment, Safety, and Consumer Affairs. Joined RSPA as Acting Director, Office of Program Support. Reassigned to Office of Transportation Security as a Program Analyst in 1980 and joined OET in 1982. Designated to current position in December 1987.

115 b1

- Chief, Operational Readiness Division, GM-15. Manages the Department's internal programs to insure a capability for essential operations in any emergency. Includes emergency operations facilities, communications, and continuity of government. Manages the DOT National Defense Executive Reserve (NDER) program and training and exercise activities. Manages OET's international activities.

  Incumbent: John W. Porco. Transferred with the Federal Highway Administration to DOT on its inception in 1967. Served in various engineering and planning positions with FHWA, the last being a 5-year position as the DOT Regional Emergency Transportation Representative, responsible for emergency planning in Region 3. Transferred to OET in 1983 as emergency planning specialist. Promoted to current position in January 1988.

- Emergency Transportation Planning Specialist, GM-14. Manages the Department's emergency transportation data base and automated analytical models. Assists in development of resource management plans and in the Department's response to domestic emergencies.

  Incumbent: Barbara L. Yeckley. Transferred with the Federal Aviation Administration to DOT on its inception in 1967. Reassigned to the Office of the Secretary as a program assistant and ADP manager in 1970. Joined RSPA when the Administration was created as a Program Analyst on the Programs and Evaluation Staff, responsible for budget and program review. Reassigned as Financial Specialist in the Materials Transportation Bureau in 1983. Joined OET staff in 1984 in current position.

115b2

- Emergency Transportation Specialist, GM-14. Manages the Department's extensive exercise and training program for emergency team members. Prepares Departmental plans for continuity of operations in a full range of emergencies.

  Incumbent: Thomas G. Allan. Worked in transportation for the U.S. Air Force until 1972. Joined DOT with the Coast Guard in 1972. Transferred to the Office of Hazardous Materials in RSPA in 1978, drafting regulations. Assigned to OET in 1985 in current position.

- Emergency Program Specialist, GS-12. Manages the administrative processes associated with NDER program. Develops NDER policies and procedures. Assists in OET's emergency communications system. Assists in a wide range of programs related to continuity of government.

  Incumbent: Shirley S. Johnson. Prior to joining DOT/OET in 1989, served as an Emergency Preparedness Program Specialist with the Office of Energy Emergency Operations, Department of Energy, since 1984.

- Program Analyst, GM-15. Performs special operational analyses of DOT and RSPA emergency programs and proposed legislation and regulations. Develops analytical data to support elements of the resource management program.

  Incumbent: Charles Rogoff. Joined DOT/RSPA in 1984 as Director, Office of Program Management and Administration. Reassigned to current position in OET in 1989.

- The three clerical positions are:

  Secretary to the Director, GS-8, Gale L. Hines. Joined OET in 1984.

  Secretary to the Resource Management Division, GS-7, Lorraine B. Chatman. Joined OET in 1984.

  Secretary to the Operational Readiness Division, GS-5, Windy Y. Hamilton. Joined OET in February 1990.

ORT DOCUMENT DISSEMINATION

Mr. **Lehman**. Your request of $79,000 for the operation of this office is described as the "minimum necessary to continue the operation of the document dissemination center". Up until fiscal year 1990, this activity was financed by user reimbursements. Provide data on the total budget and the financing methods used (direct appropriations and reimbursements) to support the operations of this center for Fiscal Year 1991 and compare that data to the previous three fiscal years.

[The information follows:]

The Office of Research and Technology has never received any financial support for its services from user reimbursements. A test is underway to explore the sensitivity of user groups to selective cost recovery, focusing on the National Technical Information Service (NTIS) as a vehicle. The revenues from this test will accrue to NTIS, and will not be returned to the Technology Sharing Program. This is a market feasibility test at this point.

A summary of the direct appropriation of program funds for this activity follows:

Office of Research and Technology

Program funds: Fiscal year:	
1988	$59,400
1989	46,000
1990	103,000
1991	79,000

Mr. **Lehman**. How many documents are disseminated annually from the Office of Research and Technology? What are the major categories of these documents, and who uses them?

Mr. **Dungan**. For the past several years we have distributed about 60,000 documents. They go primarily to State and local governments. We provide them without charge. The categories are by mode. Urban mass transit is obviously an area of great interest to cities. And we have other information in the highway and rail areas.

Mr. **Lehman**. Expand on your answer for the record and provide comparative statistics for Fiscal Years 1988 through 1991.

[The information follows:]

Documents disseminated annually

Fiscal year:	
1988	100,000
1989	60,000
1990	60,000
1991	60,000

Categories of documents disseminated through the Technology Sharing Program include alternative financing approaches for transportation, planning techniques and data for multimodal systems financing, facilities management, and human resources management. Other topics include rural transportation, multimodal transportation and terminals, improving highway/transit system capacity and performance, systems performance evaluation, specialized transportation for the elderly and handicapped, safety and substance abuse, and transit management.

The largest users of the Technology Sharing Program have consistently been State and local government elected and appointed officials, state and local government functional agencies (both transportation and non-transportation), private sector firms supporting them, universities, transportation companies, and other federal agencies.

FEDERAL RADIONAVIGATION PLAN

Mr. **Lehman**. Explain the current provisions of the Federal Radionavigation Plan as they relate to civil use of DOD's Global Positioning System.

Mr. **Dungan**. The military maintains for its own use the Global Positioning System that is extremely precise. I believe it is precise to the point of 30 meters. The military has allowed the civil sector to use the Standard Positioning System, which allows for accuracy within 100 meters.

As far as potential for other uses, they are tremendous. The private sector has realized the tremendous ways that Geostar and Railstar can track their fleets. As a matter of fact, this type of technology could really help the FAA in terms of spacing of aircraft, particularly over the ocean.

Mr. **Lehman**. What is the schedule for making changes to the Federal Radionavigation Plan?

Mr. **Dungan**. Our next plan will be out in December.

Mr. **Lehman**. Explain in detail all activities planned for fiscal year 1991 which relate to satellite-based navigation alternatives such as GPS and GLONASS.

[The information follows:]

1. Publish and distribute the 1990 Federal Radionavigation Plan (FRP) in December 1990. The FRP is driven by the Global Positioning System (GPS) and its potential to replace other radionavigation systems.
2. Resolve issues relating to implementing GPS for national and international civil users. Includes issues on GPS applications signal availability and integrity, and status information dissemination.
3. Resolve issues related to Federal radionavigation planning which includes GPS and other radionavigation systems. Requires intermodal coordination and planning with the Department of Defense. (DOD).
4. Resolve GPS/GLONASS issues that may impact on intemodal policy and planning.
5. Develop U.S. radionavigation policies and plans regarding GPS and interoperable systems such as GPS/GLONASS and GPS/Loran-C and ascertain the impact of U.S. policy-making decisions on the national and international radionavigation community.

ORT ACCOMPLISHMENTS

Mr. **Lehman**. How do you measure the effectiveness of the Office of Research and Technology? What are its specific accomplishments over the past couple of years?

Mr. **Dungan**. They have a number of accomplishments. One is to support the Department's Research and Development Council, which I chair. That group is comprised of the Associate Administrators for R&D each mode within the Department.

What we try to do is to give the Secretary an alternative view as opposed to what the budget people recommend he should fund in R&D. We try to give him what we, the R&D people, think should be funded. We don't mean to compete with the budget office. But we think that he ought to have the point of view of some of the R&D staff.

They get very involved in the dissemination of materials to State and local governments. We use them frequently when the Secretary has an issue that he needs a quick turnaround, for example, a report on double hull tankers in two days. These folks know exactly where to get that data.

ORT PERSONNEL

Mr. **Lehman**. What are the responsibilities of each of the positions in this office and what is their GS level and training/experience?

[The information follows:]

1. Director, ES-04:

Responsbile for technical and administrative direction and guidance of Office activities to help assure that the Department conducts a relevant, cost-effective program of research and development (R&D) for present and future transportation needs; assuring that the results are made available in a useful form to State and local government, other Federal agencies, and the transportation community; providing leadership in technical programs requiring transmodal participation and coordination, such as the civil radionavigation program; and providing guidance and support to Departmental programs interacting with the academic community on technical issues and research, including the Department University Transportation Centers program.

2. Program Development Officer, GM-0801-14:

The incumbent identifies transportation needs or problems amenable to technical solutions and opportunities to meet these needs through new technology development or technology transfer. This includes identification of specific products originated by state/local government or the Department for dissemination through Technology Sharing channels, working with administration program officers and the Office of the Assistant Secretary for Budget and Programs to assure needs are recognized in formulation of specific R&D proposals, and providing input to policy development at all levels on new technologies and alternatives for funding and implementing them.

3. Technology Sharing Officer, GM-345-14:

The incumbent assures that the Technology Sharing Program is relevant to the needs of its intergovernmental and private sector constituents and that the R&D program outputs are developed and packaged in ways that make them meaningful and easily assimilated by these groups. Works with the Operating Administrations in support of dissemination of R&D results and the implementation of technology transfer activities throughout the Department.

4. Radionavigation Communications Program Manager, GM 1301-14:

The incumbent is responsible for implementing RSPA's radionavigation and telecommunications responsibilities. These include: coordinating intermodal technical issues on radionavigation; coordinating radionavigation and telecommunications systems planning for DOT; and coordinating intermodal radionavigation issues and planning with the DOD to produce the "Federal Radionavigation Plan" (FRP).

5. Staff Assistant, GS-301-11:

The incumbent serves as Staff Assistant to the Director and is responsible for planning, implementing, and completing a wide variety of office management, administrative, and special technical services required to meet the varied responsibilities and activities of the office.

6. Secretary, GS-318-08:

The incumbent serves as the Secretary to the Director and supports a staff of specialist in the fields of engineering, operations research, program anslysis and research technology. The incumbent provides a variety of secretarial and administrative functions to assure the smooth operation of the office and to assure that the Office responds to its program constituents, Congressional, White House, Secretarial, state and local governments, and the interests and needs of the general public.

HAZMAT TRAINING

Mr. **Lehman**. Under the Office of Hazardous Materials, you request a new line item for training in 1991. What type of new training is envisioned and why is it necessary?

Mr. **Dungan**. Could we get that for the record for you?

Mr. **Lehman**. For the record.

[The information follows:]

During FY 1989, the OHMT staff received training in the following subject areas: management skills, executive development, radioactive materials packaging, effective writing, corrugated packaging and nuclear systems safety. This interest in adding to their knowledge continued into FY 1990 with training courses on transportation of radioactive materials, health physics and compliance and inspection. Additionally, OHMT staff have taken courses in government bookkeeping, proofreading, and position classification. Because of the rapidly advancing technology in hazardous materials, hazardous waste and radioactive materials, it is essential that we provide training opportunities to the staff so that they are knowledgeable in these areas.

COST SHARING FOR HMIS

Mr. LEHMAN. How do outside users pay their fair share of the acquisition and operating costs of the Hazardous Materials Information System?

Mr. ROBERTS. The public entities, such as State and local governments, academic institutions, we do not charge them for access to our Hazardous Materials Information System. We have found that it is not cost effective to charge for a small number of pages, even in requests from industry because of the time and effort that would be expended in collecting the funds for it. The only place where we seek reimbursement is for large data runs coming in requests from industry. There is a minimum charge of $35 for that. It goes directly to the contractor that provides the service. We do not handle it through budgeted slot. When it is a large industry request. It is at no cost to the taxpayers.

HMIS COMPUTER USAGE

Mr. LEHMAN. Break down the percentage of HMIS use by DOT administration, NTSB, DOD, states, and localities.

[The information follows:]

RSPA programmatic offices account for roughly 99% of the total HMIS computer usage. The remaining user community and their percentages of use are shown below:

User:	*Percentage of use*
DOD	24
Other Federal agencies	1.3
DOT/modal administrations	46.2
States/local governments	28.5

HMIS ADP COSTS

Mr. LEHMAN. Provide a detailed breakdown of fiscal years 1990 and 1991 costs to maintain and operate HAZMAT ADP systems, as shown on page DHM-4.

[The information follows:]

[In thousands of dollars]

	—Fiscal year—	
	1990	1991
Data entry and systems development efforts to maintain and update the incident reporting subsystem	$441	$441
Data entry and systems development efforts to maintain and update the exemptions subsystem	60	60
Data entry and systems development efforts to maintain and update the approvals subsystem	70	70
Data entry and systems development efforts to maintain and update the regulations subsystem	60	60
Data entry and systems development efforts to maintain and update the enforcement subsystem	5	5
Development of and training in the use of a Regulations Tracking System	25	0
Office automation support	65	100

[In thousands of dollars]

	Fiscal year—	
	1990	1991
Support the National Response Center	150	150
Update and maintain telephonics subsystem	50	50
Facility management and computer system support	125	125
ADP support activities	27	27
Local area network	57	57
Total	1,135	1,135

HAZMAT EXHIBIT

Mr. Lehman. On page DHM-10, you describe a national exhibit which is displayed at hazardous material conferences around the country. Explain in more detail what the exhibit is composed of, and how it benefits your program objectives.

Mr. Roberts. The exhibit is used to inform and educate government officials, the emergency response community and regulated industries in regard to available emergency response programs in compliance with the regulations. We are to obtain assistance inspecting their programs.

One good example is the substantial interest in our exhibit at the annual meeting of the National Fire Protection Association last year attended by several thousand of its members. It is just a way of getting information to the public and very importantly to state and local governments on the different kinds of services we render in the hazardous materials area.

Mr. Lehman. Please also provide a list of conferences at which this exhibit was used over the past two years and show how fiscal year 1991 funds would be used.

[The information follows:]

The RSPA display has been exhibited during FY 1988 and 1989 at the following locations:

1988

Mid-America Truck Show, Louisville, KY., March.
International Truck Show, Anaheim, CA., April.
Hazardous Materials Advisory Council, Alexandria, VA., May.
Southwestern Truck Show, Houston, TX, June.
International Assn. of Fire Chiefs Convention, Washington, DC., August.
Mid-South Truck Show, Nashville, TN., September.
Michigan Truck and Trailer Show, Detroit, MI., October.
Central States Truck Show, Chicago, IL., November

1989

Midwest Truckers Assn. Exhibition, Springfield, IL., February.
East Coast Truck Show, Baltimore, MD., March.
National Response Team Nat'l. Haz mat Training Conference, Emmitsburg, MD., March.
Southwest Truck Show, San Antonio, TX., June.
International Truck Show, Anaheim, CA., July.
National COHMED Meeting, Lakewood, CO., September.
CVSA Fall Conference, Toronto, Canada, October.
Central States Truck Show, Chicago, IL., November.

RSPA anticipates that funding for 1991 will be used for the same relative mix of truck shows, meetings and conferences as in the past. Approximately 8 to 10 showings of the display will be done. The exact number and locations will be determined based on cost, audience, and scheduling considerations.

HAZMAT EMERGENCY RESPONSE GUIDEBOOK

Mr. LEHMAN. In fiscal year 1990, $800,000 was provided to publish and distribute the *1990 Hazardous Materials Emergency Response Guidebook*. For fiscal year 1991, you request an additional $100,000 to make sure that operations-level personnel are aware of changes made in that version of the guidebook. Why is this necessary? Do they not review the book? Why do you not simply include an insert with each new version which describes the changes?

Mr. DUNGAN. That is actually not a bad idea. What we try to do, since it is a little dry reading for a lot of people to read about different chemicals and how to handle them, is to have video tapes, seminars and teleconferences that we like to use to try to bring it alive for the first responders.

PIPELINE SAFETY FIELD POSITIONS

Mr. LEHMAN. On page DPS–2, you request six additional field positions in pipeline safety. To which regions would these positions be allocated and why?

[The information follows:]

The additional six regional inspection positions are apportioned as follows: (1) three positions for the Southwest Regional Office to provide inspection coverage of an additional 55 off-shore inspection units and 78 interstate inspection units identifed in FY 1989, (2) two positions for the Western Regional Office to assure annual inspections of the 14 hazardous liquid inspection units in Alaska, the LNG export facility in Alaska and offshore pipelines in Alaska and to assure compliance with Federal safety standards in environmentally sensitive areas of Alaska and California, and (3) one position for the Central Regional Office to allow adequate time for indepth accident investigation, followup enforcement action and new pipeline construction inspections.

FIELD POSITIONS FOR OFFSHORE PIPELINES

Mr. LEHMAN. Under pipeline safety, cumulatively what percentage of additional workhours would be utilized for offshore pipelines? We are talking about the six additional field positions.

Mr. DUNGAN. I believe it is 22 to 33 percent of their time. In the Gulf area, it would be at the high end of that range.

PIPELINE SAFETY TRAINING

Mr. LEHMAN. Your request includes $5,000 for training in the Office of Pipeline Safety, which has 60 staff. By contrast, the Offices of the RSPA Administrator and the Chief Counsel have only 16 staff, but they have a larger training budget. Is this a fair allocation?

Ms. MCMURRAY. Yes, sir. We think that the number assigned to Office of Pipeline Safety may appear to be low since it is only $5,000. In point of fact, much of their money is spent training for pipeline safety inspectors. So, the $5,000 that is shown in pipeline is actually for the non-technical training for Washington and field staff which are not pipeline inspectors.

Mr. Lehman. Why are you requesting a 15 percent increase in funding for Transportation safety Institute pipeline safety training?

Mr. Dungan. What we are trying to do there is improve our training courses in the pipeline safety area. There have been a number of changes because of rulemakings and a number of other changes just in the general curriculum we would like to make. TSI, we get a long of bank for a buck there and we think that is a pretty worthwhile investment.

Mr. Lehman. Mr. Wolf?

HAZMAT CENTRALIZED DATA BASE

Mr. Wolf. Thank you, Mr. Chairman. I was attending another hearing. Just one or two very fast questions. On hazardous substance transportation, do you or have you considered developing a centralized data base whereby different rescue and fire squads could contact you to see what is on a truck? I am referring to the accident that occurred on I-270. They looked at the manifest. They did not believe the manifest and, that tied up traffic for another 8 to 12 hours. Do you have a mechanism or a central data base where a fire or rescue squad could call in, find out and believe what they hear?

Mr. Dungan. There is a system by which they can call in.

Mr. Wolf. Did they call in this case?

Mr. Dungan. I believe they did. They call in and find out what they should do in response to a spill, given what was on the manifest. There is not an on-line system which actually tracks every HAZMAT shipment everyday that somebody in a police or fire department could pull up instantly.

The reason there is not is it would be extremely expensive, somewhere between $2,000,000,000 and $4,000,000,000.

DOD HAZMAT SHIPMENTS

Mr. Wolf. $4,000,000,000?

Mr. Dungan. Yes. There are 500,000 shipments daily of hazardous materials.

Mr. Wolf. Is there any system with regard to DOD materials?

Mr. Dungan. That, I do not know; but Al Roberts is our Director of Hazardous Materials.

Mr. Roberts. Mr. Wolf, the Department of Defense is engaged in an experiment on satellite tracking, real time tracking. They are paying a surcharge to certain carriers to transport certain type of munitions and sensitive cargoes. I believe we would all agree we do not want Stinger missiles out loose. They consider that sensitive cargo. It is not just motivated by safety. It is also the security of the cargo. It is a very limited experiment they are conducting, but there is no question that real time tracking will give you some information we do not have presently available for general truck transportation.

I should point out that the major consequences in hazardous materials transportation historically has been gasoline, and there are about 100,000 tank truckloads of gasoline daily moved in the United States. We are talking about big volumes of gasoline moving short distances in your communities, and to have a centralized reporting system or data base relative to that, we have not been able to show it would be cost beneficial.

HAZMAT SHIPMENTS IN WASHINGTON, DC AREA

Mr. **Wolf**. Congressman Hoyer and I have asked the Metropolitan Washington Council of Governments to follow what the Department of Defense does relative to hazardous materials. We have asked that there be no hazardous materials deliveries at rush hour both in the morning and the evening because that is when the most accidents happen. COG is now considering making this apply to local governments, so that there will be no fuel deliveries to schools, or any local government buildings. Do you have any thoughts as to the merits of this?

Mr. **Dungan**. I know that Al Roberts does.

Mr. **Roberts**. I was at some of the meetings that you attended, sir, relative to the Beltway. One of the things I think you are going to find that the study will require the expansion of existing petroleum facilities, such as the one down in Springfield. There is a given here that we are going to consume a certain amount of petroleum in the Washington, D.C. area. A lot of the trucks we are looking at run 24 hours a day. You will see Exxon trucks delivering gasoline at local gas stations at 3:00 in the morning.

Now, if we take all the trucks and move them into those time frames, the first thing we are going to have to do is get more trucks. And we are going to have to have bigger facilities to handle more trucks during a given time frame, or else load them up and park them someplace. That is the other option.

I think that you are going to find that there are going to be some difficulties to be addressed in terms of any kind of time of day restriction. To date, we have not seen much benefit coming from that.

Mr. **Wolf**. Is there anything that you know that we do not know here in the Washington DC area. It seems to me that this is the big issue. A truck overturns at the Beltway and Route 193 and we are tied up for the day. Is there anything that the local people or the States of Virginia and Maryland, the District of Columbia is not doing that could be done, particularly with regard to the Beltway?

Maybe you might want to think about it.

Mr. **Roberts**. I think you have heard a lot of the traditional answers. I do not know if I can amplify them. One is the fact that the Beltway has reached its capacity or anticipated capacity and that something should be considered in terms of getting some of the traffic around the D.C. metropolitan area. In other words, a bypass, if you will, and there are studies underway.

The other thing that I think is very important and you have seen some of this happen in reaction to the recent issues is the inspection base over in Virginia. Also, the commercial driver's license legislation that Congress passed several years ago is going to do, in our view, a lot to improve the quality of the drivers handling these materials. And there are two separate endorsements in the hazardous materials area for driver's licensing under that legislation.

We anticipate that there will be a substantial improvement in the quality of the drivers handling these materials, their skills and abilities and their attitude. I think this is where we are going to see the biggest payoff.

HAZMAT SHIPPING VIOLATIONS

Mr. WOLF. If you have got 100 trucks carrying hazardous waste and you pull them off and gave them complete inspections, how many do you think would be in violation? Brakes, anything, steering? A typical day, pull off 100 trucks.

Mr. ROBERTS. I think it is a very hard question to answer, sir. It is a good question. I started out in this business as an inspector, and we used to try and run statistical road checks. You have heard a lot of this data about 40 percent of the trucks were put out of service. Statistical road checks are very difficult to run for a good, honest inspector. He sees a truck that is defective and it is not part of the statistical count, he is going to go inspect it and mark it up anyway. So, the statistics tend to go high if they are really out there doing their job.

You often see the results of these types of inspections that the numbers come in high. A question I often ask is: How many times has anybody seen a defective United Parcel truck? I do not mind mentioning the company's name. How many times has anybody ever seen a United Parcel truck broken down along the side of the road? You just do not see it.

Now, I know of inspectors who have inspected hundreds and hundreds and hundreds of United Parcel trucks and never written a violation. But they just do not go after United Parcel trucks. They go after the trucks that have the appearance or give them the impression that they are going to find defects that should cause their removal from the road.

That is a long answer, but it is very hard for anybody to give you an answer that would say, out of so many trucks out there, you are going to find this percentage defective.

HAZMAT SHIPPING—U.S. VS. OTHER COUNTRIES

Mr. WOLF. I guess the last question I have, is there anything being done in Europe? I quickly read through the testimony. You are trying to keep us competitive. Is there anything that they are doing in Europe or in Japan with regard to this subject that we are not doing? Are they doing a better job? A worse job? Or differently than we are doing?

Mr. DUNGAN. Al is on the Board of Experts of the United Nations on the subject, so, he is probably the best person to answer that.

Mr. ROBERTS. I do not believe I can answer your question. I am very familiar with the activities of the ADR people. That is the European Standards Organization for commercial motor vehicles. The National Highway Traffic Safety Administration is very active in the vehicle standards activities of the economic and social council in Europe. We are from the hazardous materials transport standpoint.

For example, the Netherlands has a very large percentage considering their roadways or population of inspection personnel as compared to most other countries in the world. They have just about saturated their highways with hazardous materials and general motor vehicle inspectors.

My impression from being over there quite a bit in doing UN work and looking at the vehicles is that the overall motor vehicle system in Europe, they appear to be a very high quality type operation. It would be interesting to find out if that is revenue related, frankly. I just do not know the answer.

Mr. **Wolf**. Do they have a better safety record than we have? Have you ever looked at the per capita per number of trucks per use? Has anyone ever looked to see what they are doing, the best of what they are doing compared to the best of what we are doing to see?

Mr. **Roberts**. I do not know the answer to that. I could check with our associates at the Federal Highway Administration and see if they have some comparative data. That just might be available and we could possibly supply it to you.

Mr. **Wolf**. If you could. Just give my office a call.

Again, I apologize for not being here earlier. Thank you.

Thank you, Mr. Chairman.

HAZMAT AND OTHER ACTIVITIES IN FLORIDA

Mr. **Lehman**. Thank you, Mr. Wolf.

Before we conclude, I know you were in Florida, at the Florida Department of Commerce. Is there anything going on in Florida that RSPA does which I should be aware of? How does it relate at the local level?

Mr. **Dungan**. There is no direct reason why I am involved in one or the other. I would say that there is a pipeline in Florida that is fairly significant that I think we may have taken action on, actually. And hazardous materials are all over the State as well.

Mr. **Roberts**. I would just mention that we have very active participation by Florida Department of Transportation personnel in our cooperative hazardous materials enforcement program. As a matter of fact, currently, the chairman of the Southeast Region is from Florida.

Mr. **Lehman**. And we have a number of nuclear power plants there and they generate hazardous materials and it has to be hauled out of Florida some way, I assume.

Mr. **Dungan**. On the research side, the MAGLEV trains, high speed rail, is something that our Transportation System Center is very active in.

Mr. **Lehman**. Out of Orlando?

Mr. **Dungan**. Right. And one thing, I know that our Office of Research and Technology does a lot for the Florida DOT and the Florida DOT claims that that office saves him $100,000 a year.

ADJOURNMENT

Mr. **Lehman**. Well, thank you, Mr. Dungan.

Mr. **Dungan**. Let me assure you, you have a strong advocate for Florida.

Mr. **Lehman**. Are you from Florida?

Mr. **Dungan**. Yes, sir.

Mr. **Lehman**. What part?

Mr. **Dungan**. A native Ft. Lauderdale.

Mr. **Lehman**. Oh, a neighbor.

Mr. **Dungan**. That is right.

Mr. **Lehman**. I want to thank you for being here. Thank you for the testimony.

The subcommittee is adjourned.

WEDNESDAY, MARCH 21, 1990.

FEDERAL RAILROAD ADMINISTRATION

WITNESSES

GILBERT E. CARMICHAEL, ADMINISTRATOR, FRA
S. MARK LINDSEY, CHIEF COUNSEL
WILLIAM J. WATT, ASSOCIATE ADMINISTRATOR FOR POLICY
JOSEPH W. WALSH, ASSOCIATE ADMINISTRATOR FOR SAFETY
JAMES T. McQUEEN, ASSOCIATE ADMINISTRATOR FOR PASSENGER AND FREIGHT SERVICES
RAY ROGERS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
ROBERT KRICK, DIRECTOR OF RESEARCH AND DEVELOPMENT
GARY V. CECCUCCI, ACTING DIRECTOR OF BUDGET

Mr. LEHMAN. Good morning. The Subcommittee will come to order. This morning we will receive testimony on the fiscal year 1991 budget request of the Federal Railroad Administration (FRA). That request is for $69.6 million. It is a $3 million, or 4 percent, decrease for comparable projects in fiscal year 1990. The FRA is requesting no funds in fiscal year 1991 for the Northeast Corridor Improvement Program or for grants to Amtrak. Today, we will confine our hearing to FRA's budget request and related issues. Tomorrow, the Committee will receive testimony on Amtrak's needs.

Our witness today is Mr. Gilbert E. Carmichael, the FRA Administrator. Mr. Carmichael, the Subcommittee welcomes you and your supporting staff here today. I would like to mention that one of the supporting staff is Perry Rivkind from Miami who was the head of our Immigration and Naturalization Office there and did a super job during tough times. I know he is a designee for your Deputy, and I look forward to working not only with you, but with him also. Your biography will be placed into the record at this point.

[The information follows:]

Gilbert (Gil) E. Carmichael
Federal Railroad Administrator

Federal Railroad Administrator Gil Carmichael leads an agency of 697 personnel whose primary responsibilities center on making America's railroads safer, encouraging research and development in the areas of safety and new technology, and supporting policies that will enhance the competitiveness of America's freight and passenger railroads.

Formally appointed to his position in September, 1989, after six months as a consultant to FRA, Mr. Carmichael and his agency have undertaken a number of important challenges in recent months, including implementation of the Rail Safety Improvement Act, which conferred broad new safety enforcement authority upon FRA. Under Mr. Carmichael's leadership, the agency's safety inspector workforce has been expanded and a new training program is being developed. Mr. Carmichael has been instrumental in securing Administration support for funding advanced technology rail systems, such as magnetic levitation and high-speed rail. He served on the Department of Transportation's "core group" of senior Administration officials which supervised the development of Secretary Samuel K. Skinner's National Transportation Policy, released in March, 1990.

Mr. Carmichael also serves as the Secretary's representative on the board of directors of the National Railroad Passenger Corp. (Amtrak), as a director of Union Station Redevelopment Corp., and as chairman of an interagency executive committee supervising the evaluation of maglev technology.

A native of Meridian, Mississippi, Mr. Carmichael, 62, was appointed by President Ford as a Federal Commissioner for the National Transportation Policy Study Commission, and served as Chairman of its Subcommittee on Advanced Technolgy. From 1973-1976 he served on the Department of Transportation's National Highway Safety Advisory Committee and was its chairman in 1975 and 1976. He has served on several commissions and advisory panels associated with transportation in his home state, and has been active in civic affairs as well.

A graduate of Texas A&M University with a B.S. in Business, Mr. Carmichael was a Fellow of the Institute of Politics, Kennedy School of Government, Harvard University. From 1980-1989 he was a trustee of the Robert A. Taft Institute of Government.

Mr. Carmichael served in the United States Coast Guard during World War II and the Korean War, and in 1952 received the Silver Lifesaving Medal for rescue in the North Atlantic.

Prior to his Federal appointment, Mr. Carmichael was an automobile distributor and real estate developer. He is married to the former Carolyn Dean White, and they have one son, Scott.

OPENING REMARKS

Mr. **LEHMAN**. If you would like to present an oral summary of your statement, please go ahead, and then we will proceed to the questions. Welcome to an old automobile dealer.

Mr. **CARMICHAEL**. Thank you. I appreciate that very much, Mr. Chairman, and distinguished members of the Committee. You do have my formal statement. I will let that stand as submitted.

I am happy to be here and present the budget request for 1991. I have a very fine senior staff that I have gotten to know in this last year. I would like to introduce them, quickly. Mr. Jim McQueen is the Associate Administrator for Passenger and Freight Services; Mr. Joe Walsh on my left here is Mr. Safety. He is our Associate Administrator for Safety. Bill Watt, to my immediate left, is our Associate Administrator for Policy. Of course, all of you know Mark Lindsey on my right who is our Chief Counsel. And the Acting Budget Director, Gary Ceccucci, is here.

My first year as consultant and as an administrator have been very busy, a very happy time. I have enjoyed the job in this first 12 months very much. I found out that my 1972 to 1976 experience at the Department of Transportation as Chairman of the Highway Safety Advisory Committee has been valuable to me in coming back. My time in 1976 to 1979 as a Commissioner for the Transportation Policy Study Commission gave me a wealth of knowledge about our transportation system and it is helping me very much in my work.

The Federal Railroad Administration has three key roles. The first one, of course, is safety. The second, as I interpret the laws passed by Congress, is to work with the industry in both labor and management. And the third is safety and technology research and development. And the two of them go hand-in-hand. Safety and technology development have to be done simultaneously.

Safety is our number one priority, and these charts that we have here are the report cards of the industry and its employees and of FRA. If you will let me, I will touch on the bullet points quickly as we look at these charts.

[The charts are as follows:]

CHART 1

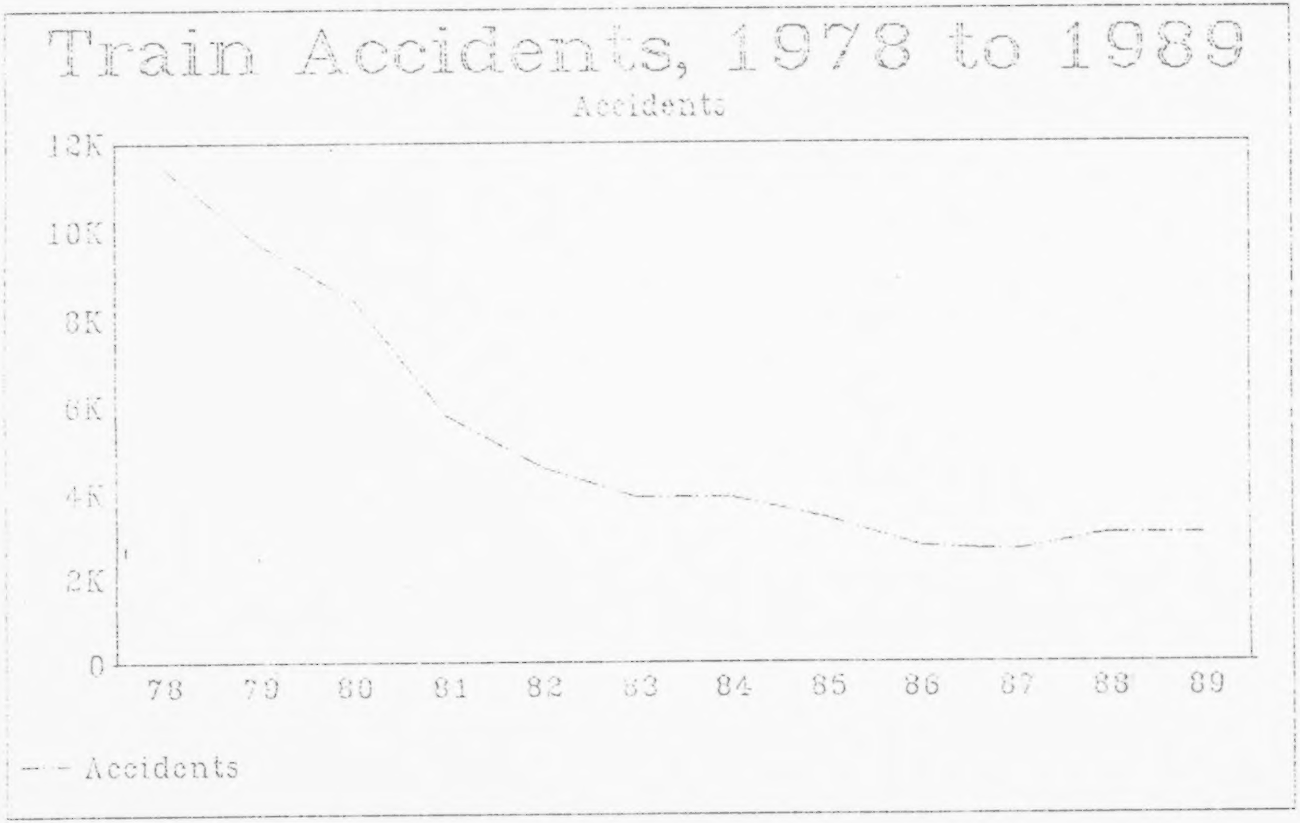

Train Accidents, 1978 to 1989
Accidents
12K
10K
8K
6K
4K
2K
0
78
79
80
81
82
83
84
85
86
87
88
89
Accidents

CHART 2

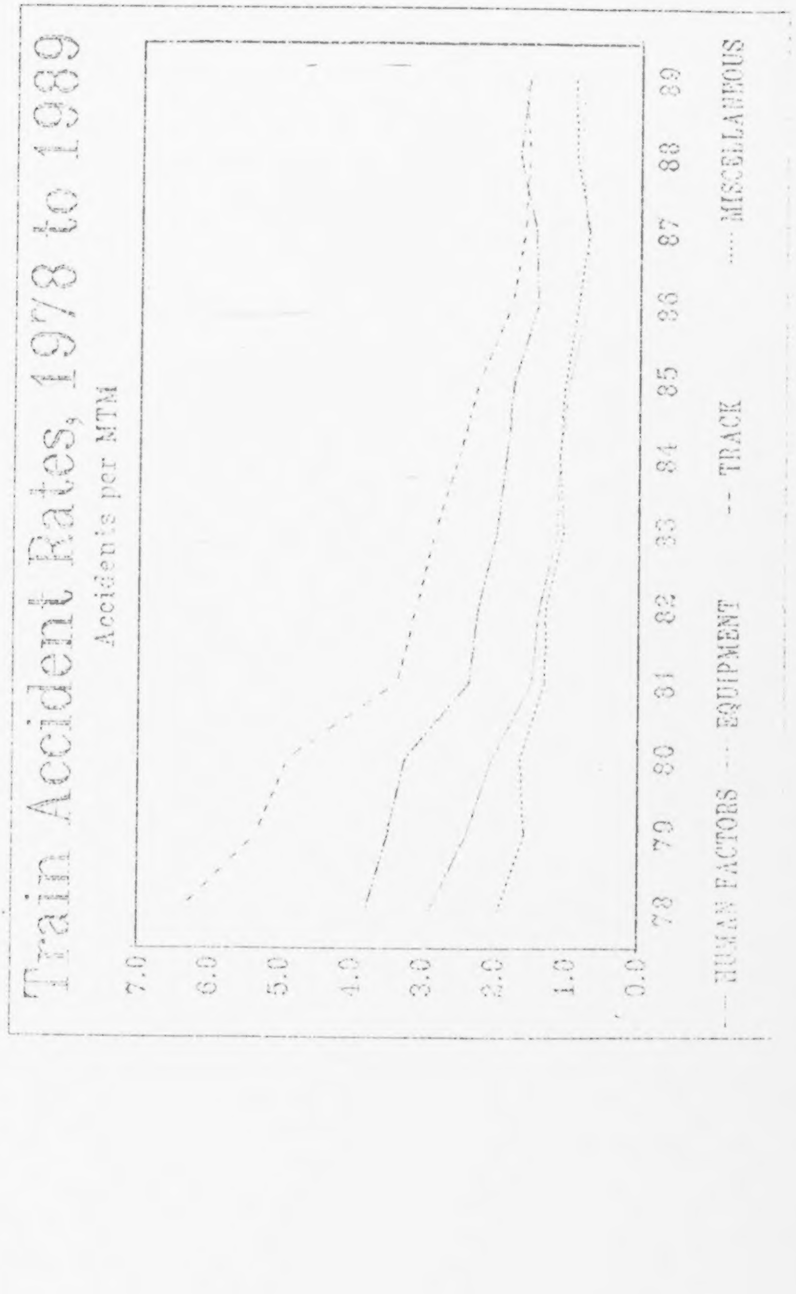
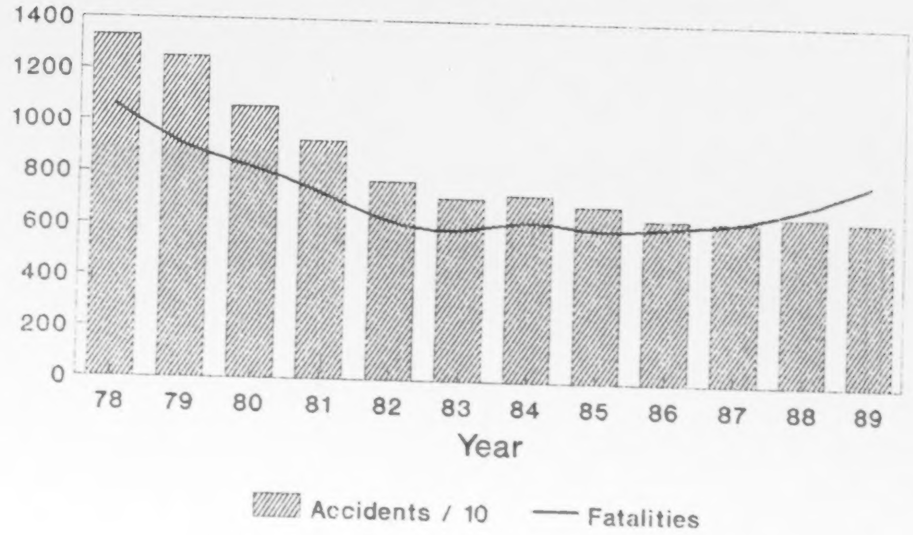

Train Accident Rates, 1978 to 1989
Accidents per MTM
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
78
79
80
81
82
83
84
85
86
87
88
89
— HUMAN FACTORS
-- EQUIPMENT
-- TRACK
.... MISCELLANEOUS

CHART 3

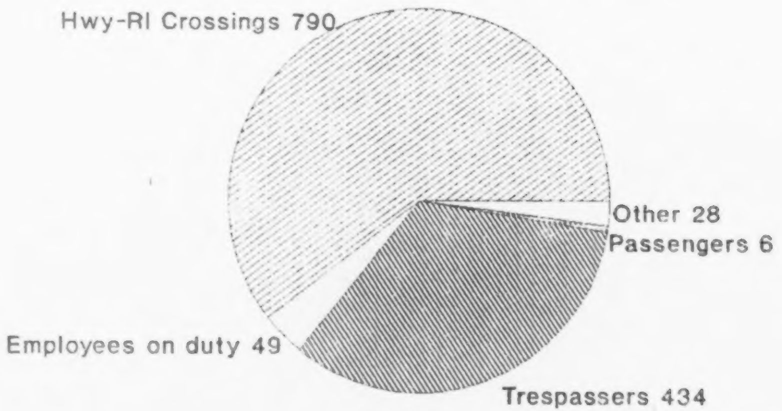
Highway-Rail Crossing
Accidents and Fatalities



Source: Federal Railroad Administration
('89 data is preliminary)

CHART 4

1989 FATALITIES
Attributable to Railroad Operations



Data is preliminary.

Source: Federal Railroad Administration
Note: Three employees that died in
crossing accidents are counted twice.

ACCIDENT DATA

The 1989 rate is almost the same level of reported train accidents as in 1988: 3,048 for 1989 and 3,051 for 1988. Train miles increased 1.6 percent over 1988, which reduced the accident rate per million train miles from 5.01 percent in 1988 to 4.92 percent in 1989, almost level, but still a decrease.

The total rail-related fatalities increased, and this is something that is very significant and worrying me. The rail-related fatalities increased from 1,199 in 1988 to 1,305 in 1989. Of this 106 fatality increase, 101 of those fatalities were due to highway rail crossing accidents. The total number which grew from 600 highway rail crossing fatalities in 1989 to 790, is a very significant jump.

The total grade crossing accidents decreased from 6,615 in 1988 to 6,463 in 1989. But as I just explained, while the grade accidents decreased slightly, the number of fatalities rose by 9 percent. I will be glad to respond to additional questions on these charts as we get into the hearing.

Compared to 1978, as you look at these charts, the figures are excellent. But I am concerned about the trends and must assume as the Administrator that the trends are going to continue going up. We cannot assume that they are a blip. We are taking actions. Soon, there will be a notice of proposed rulemaking (NPRM) on grade crossing maintenance, heavier emphasis on Operation Lifesaver. This little pin that I wear all the time represents Operation Lifesaver which is a public awareness program and we must put more emphasis on it in public education.

SAFETY ENFORCEMENT

The Office of Safety, under Mr. Walsh, is under taking a very aggressive program to strengthen safety enforcement. Our inspectors are going up to 361, our authorized level, and we hope to be there by June of this year. We are bringing on a Ph.D. for training and communications. A training director has not been a specific job within FRA, and the need for it is critical.

We are changing our investigation strategy. We are going more to the source, the shippers, for example. We are going to increase our training and supervision of state inspectors to bring them up to Federal standards.

Our legal staff is processing about 9,000 violations a year. We have 13 safety lawyers to handle that many violations. And with the increase in the inspector staff, the violation numbers will go up and, as a result we are moving and shifting positions to give additional legal support in the processing of these actions.

We have a bridge engineer we are in the process of bringing on board. And we also are now actively moving into sanctions on individuals in the railroad area of operations.

We have an Advance Notice of Proposed Rulemaking (ANPRM) scheduled for May 17th on better reporting to make sure the statistical evidence that we receive from railroads is good. We are concentrating our efforts where we know we can get more results in the areas of human factors and Hazmat.

The FRA has a very heavy regulatory load. We are a small agency with probably the heaviest regulatory workload that we have had in our history. We are a small agency monitoring a huge mode, but we have to be very strategic and very scientific in what we are doing.

NATIONAL TRANSPORTATION PLAN

Finally, in summary, after safety, the Agency has played a major part in the last 12 months in helping the Secretary create a National Transportation Plan. And I am very happy to say that that plan recognizes the railroad industry and the opportunities that the railroad mode can play. Our railroads, of course, have been neglected, in my mind, by the public and the government and by the industry, itself. I think that is changing.

We have air pollution, congestion and highly stressed highway systems. The railroad plays a major role in helping solve some of those problems. We are trying from an advocacy standpoint, to make sure that the railroad mode is being heard and is being used. There are about 150,000 miles of railroad right-of-way out there that is only being utilized at about 25 percent of capacity. It goes into all of our urban centers. It has a strategic position as we study our transportation needs today.

The program for Amtrak will be discussed at another meeting with Amtrak tomorrow. We have been very involved in studying the European high-speed rail opportunities. We are quite concerned at FRA that the surface transportation speeds are slowing down in the United States, for both automobiles and railroads. And if the air traffic is going to increase like the FAA says it is going to increase, the surface speeds in the United States are critical.

RESEARCH

We are also requesting expansion of our R&D budget for Maglev, and we now know from NASA's experience with the space shuttle that with new vehicles and new modes like Maglev, the technology and the safety must be designed together, especially when we are dealing with high speed items.

In summary, in the research and development and the technology side of FRA's duties, there are three rail technologies that have great application to the United States. One is a new tilt-train technology that is being used in Europe. Another is super high speed rail, steel on steel. And the third is the magnetic levitation. FRA, under our team today, wants to be very innovative and very stimulative in the area of safety and this new technology.

And I will stop there, Mr. Chairman. That is kind of a summary.

[The prepared statement of Mr. Carmichael follows:]

TESTIMONY OF GILBERT E. CARMICHAEL
ADMINISTRATOR
FEDERAL RAILROAD ADMINISTRATION
BEFORE THE
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES

MARCH 21, 1990

Mr. Chairman and members of the Subcommittee, I appreciate the honor and opportunity to appear before you today to present the FY 1991 budget request for the Federal Railroad Administration (FRA). My remarks before you today will be on FRA programs other than Amtrak. I will address Amtrak and related programs with you and Mr. Graham Claytor at tomorrow's hearing before this Subcommittee.

FRA's request is for $69,579,000 in budget authority and 709 positions. Our request reflects the commitments of President Bush and Secretary Skinner towards ensuring that the Nation's extensive rail transportation networks provide safe, reliable, and efficient services. In his budget message to the Congress, the President expressed his goal to build a better and more competitive America. A safe, modern and financially healthy railroad system is a vital part of a balanced transportation system for the United States in the 21st Century. With more than 175,000 miles of freight lines in operation, our railroads have an essential role in the regeneration of the U.S. transportation infrastructure.

Before I summarize our specific requests, let me highlight some of our accomplishments and current priorities in order to set a framework for our FY 1991 objectives.

RAIL SAFETY IMPROVEMENT ACT OF 1988

FRA is a small agency with greatly broadened safety responsibilities over a large and important transportation industry. The Rail Safety Improvement Act (RSIA), enacted in June 1988, significantly enhanced FRA's enforcement authority by making individuals liable for penalties or disqualifications and raised the maximum civil penalties for safety violations. FRA has issued several final regulations implementing the RSIA, including rules that:

- increased maximum civil penalties and scheduled penalties for hundreds of safety regulations;
- established our enforcement authority over individuals;
- established procedures for disqualification of individuals unfit for safety-sensitive functions;
- prohibited tampering with safety devices;

- o extended blue signal protection to maintenance-of-way workers;
- o required automatic train control on the Northeast Corridor and other connecting lines; and
- o expanded the reach of regulations issued under the older safety laws to coincide with our other safety regulations.

We expect to continue the rulemaking process in several other RSIA areas this year. These include:

- o use of event recorders on trains;
- o maintenance of signals at rail/highway grade crossings;
- o training standards for train dispatchers;
- o railroad employee supplements to accident reports;
- o qualification standards for locomotive operators; and
- o bridge safety for maintenance-of-way workers.

This has been the heaviest regulatory workload in FRA's history and very dedicated agency personnel have worked hard to complete these actions.

ENHANCED SAFETY RESOURCES

In addition to being a regulatory agency, FRA is responsible for the enforcement of its safety regulations through its inspection, investigation, and penalty assessment activities.

In FY 1990, Congress provided us with the increased field and headquarters resources that were needed to address the initial RSIA workloads. Our FY 1991 budget request will enable us to implement more effectively the new RSIA regulations.

Perhaps our most challenging goal in the safety enforcement area is the hiring of new safety inspectors. Since October, we have instituted management actions to accelerate our hiring practices and offset the high turnover, primarily through retirement, in the inspector workforce. At the end of FY 1989, FRA had 297 safety inspectors on board. Currently, we have 320 inspectors on board and an additional nine hires are expected to report in the next two weeks. We intend to fill the remaining inspector vacancies so that we reach full authorized strength of 361 inspectors by the end of June. This will be the highest number of safety inspectors FRA has ever had. Our FY 1991 request would provide us with the resources to keep our inspector staffing level at 95 percent of our authorized positions, which conforms to a normal annual attrition rate of five percent.

In addition, FRA is establishing a new safety inspector recruitment and training program. One of the goals of the trainee program is to bring to the workforce talented graduates from colleges, with a focus on recruiting women and minorities, who can be trained to meet the specific needs of FRA and can be expected to remain with FRA over many years. The trainees will undergo a three-year training program of formal classroom instruction, on-the-job assignments, and rotational assignments through the inspector disciplines. We are requesting 12 trainee positions to begin this program in FY 1991.

With our enhanced safety resources, FRA has already been able to quicken the pace of its enforcement activities. During FY 1989, we collected over $4,300,000 in civil penalties. In the first quarter of FY 1990, FRA has assessed more than $8,300,000 in penalties.

MAGNETICALLY LEVITATED TRANSPORTATION SYSTEMS

While safety remains our highest priority, FRA has also expanded its support of efforts to introduce high speed ground transportation into the U.S.--both high speed rail or steel wheel on steel rail systems as well as magnetically levitated (maglev) systems. A number of States along with private sector partners are seriously considering these fuel efficient and environmentally sound technologies as solutions to growing congestion on our highways, at our airports and in our airspace.

Even with these new technologies, however, our initial focus is on safety. We recently completed a study of the safety aspects of high speed rail systems. We are also participating in international forums exploring the safety of high speed rail systems. Results of the research and related activities will be used in determining safety requirements and standards for systems proposed for introduction in the U.S.

In response to a request from the State of Florida, we are doing limited safety research and testing of a maglev system proposed for implementation in the Orlando Airport area. We want to ensure the safety of passengers and workers without delaying deployment of this new technology.

At the direction of this Committee, FRA has also begun exploring the role of maglev in our transportation system and the role U.S. industry might play in developing, implementing and operating U.S. maglev systems. Last year Congress directed FRA to study the economic and technical feasibility of constructing commercial maglev systems in the U.S. and actions to promote U.S. leadership in the production of maglev equipment. Mr. Chairman, that report will be submitted this June, as requested.

The Administration recognizes the potential of maglev for meeting U.S. transportation demands in the 21st century and the industrial opportunities that will be presented by U.S. maglev systems. FRA can have a leading and innovative role in exploring the U.S. prospects in maglev transportation. Therefore, our FY 1991 budget contains funding for research and development to stimulate development of advanced maglev systems in the U.S. and to continue safety research and testing. These activities will be fully coordinated with related activities of the Department of Defense's Army Corps of Engineers, Department of Energy and U.S. industry.

Mr. Chairman, I will now summarize FRA's budget request by each appropriation.

OFFICE OF THE ADMINISTRATOR

The FY 1991 request for the Office of the Administrator appropriation is $15,807,000, an increase of $1,218,000 in budget authority from FY 1990 with the exclusion of the Local Rail Service Assistance and the High Speed Technical Assistance grant programs. We are requesting 192 permanent positions, a net decrease of four permanent positions for our direct appropriation activities. In addition, we are requesting three new reimbursable positions to support our Rail Garrison activities for the U.S. Air Force and assist the Department of Defense in achieving more cost effective use of the U.S. rail capabilities and services.

For "Salaries and Expenses," FRA is requesting $14,063,000 in budget authority, an increase of $899,000 from the FY 1990 level enacted by Congress. The request includes $755,000 in mandatory cost increases, such as adjustments in salaries and benefits, travel and per diem allowances, and other administrative expenses; and $144,000 in program increases for equipment purchases and support services.

For "Contract Support," FRA is requesting $1,000,000 in budget authority, an additional $75,000 over the FY 1990 level. This program increase will enable FRA to initiate technical assistance activities in support of regional and shortline railroads. FRA is planning a cooperative program to develop safety information and technical tools in track and equipment maintenance for use by the managers and workers of these railroads.

For "Alaska Railroad Workers' Compensation," FRA is requesting $744,000 to reimburse the Department of Labor (DOL) for the annual and lump-sum payments made to the former Federal employees of the Alaska Railroad. While Congress did not appropriate the amounts that we requested in FY 1989 and FY 1990, FRA is required by statute to request an appropriation to reimburse the DOL for payments from the Employees' Compensation Fund. DOL has had to absorb about $3 million in payments during the past two years.

RAILROAD SAFETY

FRA's FY 1991 request for the Railroad Safety appropriation is $36,500,000 in budget authority and 498 permanent positions. Our request reflects increases of $5,005,000 in budget authority, 12 positions, and 47 full-time equivalents (FTEs) over the FY 1990 levels. These increases will enable FRA to ensure the effective implementation of our expanded safety responsibilities under the RSIA.

For the "Federal Enforcement" program, FRA is requesting $28,895,000 and 431 positions, including 361 field safety inspector positions, 12 new safety inspector trainee positions, and 58 clerical support positions. The funds requested provide an additional $1,984,000 for mandatory adjustments in administrative expenses, $1,571,000 to fill 28 FTEs associated with previously authorized but unfunded positions, and $612,000 for the 12 new trainee positions. The remaining $266,000 in funding increases is for office automation equipment and support services.

The "Automated Track Inspection Program" request for $1,203,000 will provide for the operation and maintenance of our survey vehicle over 28,000 miles of passenger, hazardous materials, and other priority traffic routes. The additional $43,000 will cover costs for needed equipment overhaul and replacement.

The "Safety Regulation and Program Administration" request is for $6,402,000 and 67 headquarters positions. Our request provides an additional $572,000 for mandatory cost increases that is partially offset by $43,000 in reductions for non-recurring program activities.

FRA has proposed user fees to be assessed on the railroad industry to offset the costs of the Federal safety program. The user fees would generate $20,000,000 in FY 1991, assuming implementation for part of the year, and about $38,000,000 in FY 1992. Consistent with other Federal transportation programs, the railroad safety user fees would assure that those who benefit from the safety program will share in its cost of operation.

RAILROAD RESEARCH AND DEVELOPMENT

For the Railroad Research and Development appropriation, FRA is requesting $16,984,000 in budget authority and 16 permanent positions. Our FY 1991 request reflects increases of $7,495,000 and one position over the FY 1990 enactment level. The R&D program increases include $6,150,000 to conduct safety, economic, and other technical assessments of high-speed maglev systems and to establish a strategy for facilitating the private sector development of advanced maglev transportation systems. This initiative will require one additional position in FY 1991. Also, the request will provide $1,500,000 to cover the FY 1991 costs for bringing facilities at the Transportation Test Center (TTC) in Pueblo, Colorado into compliance with Federal and State environmental requirements. At this time, this effort is expected to require some additional funding in FY 1992 and FY 1993, depending on the State's acceptance of our clean-up plan. FRA shares responsibilities with the Association of American Railroads (AAR), which manages the TTC, for cleaning up the waste water lagoon and other sites. The remaining $9,334,000 will support FRA's safety rulemaking activities in such critical areas as operating practices, highway-railroad grade crossings, hazardous materials transport, and track structure and performance.

Mr. Chairman, this completes my prepared statement. I would be pleased to answer the Subcommittee's questions.

FRA PROBLEM AREAS

Mr. LEHMAN. Thank you, Mr. Carmichael. We will start off with general questions. You have been in office about a year now. What would you say are the three main problems confronting FRA and what are your initiatives to solve them?

Mr. CARMICHAEL. The three main problems, Mr. Chairman.

Mr. LEHMAN. You can name four if you want to.

Mr. CARMICHAEL. I can name three real easy, I think. Number one is the trend that we see in the accidents, the fatalities at grade crossings. Number two, we think this industry is coming back rapidly. We think with the new transportation policy that the rail industry will have more and more business and, hopefully, its speeds will increase and its business will increase. And, as a result, its safety will have to be monitored carefully.

As I said a minute ago, we are a very small staff. And how to use that staff effectively to monitor the safety of this country is very important.

The third is to play the role, to bring on these exciting new technologies that we have and to build a research and development staff and economic staff, an analytical group that will play the role of innovator.

Mr. LEHMAN. What is the best you have done so far?

Mr. CARMICHAEL. What is the best we have done so far? I think the best thing is getting our house in order and getting our procedures down pat; working on our statistical process of gathering data, making sure our data is accurate and starting a nationwide industry explanation of our new rules and regulations.

The best way I can describe it is we are just tightening the ship and getting ourselves up to staff like we are supposed to.

Mr. LEHMAN. Mr. Coughlin?

NATIONAL TRANSPORTATION POLICY

Mr. COUGHLIN. Thank you very much, Mr. Chairman.

I certainly want to welcome Gil Carmichael in his first official appearance before this Committee. He has certainly been a very strong supporter of the rails. I think that is to his credit. He believes in rail transportation. I think that is something we need in the leadership of the Federal Railroad Administration.

I also want to welcome your very able staff who are like old friends to this Committee, many of them. I appreciate the professional staff that you have and the professional attitude that you have and bring to this Committee.

Mr. CARMICHAEL. Thank you, sir.

Mr. COUGHLIN. You mentioned the National Transportation Policy which, among other things, is supposed to provide a framework for fairness among the modes. Under that National Transportation Policy, will rail compete on a level playing field, do you believe?

Mr. CARMICHAEL. I do not think the field will be level, but I think it is smoothing out just a little bit. There is some real recognition of the imbalance between the modes. Some of the transportation plan recommendations that benefit railroads are found over in the highway section. As you read the transportation plan, you will see that part of the leveling is part of balancing the inequities that may be in the highway area and the people who use it in the highway system. That would benefit the railroads very much.

DISQUALIFICATION OF RAIL EMPLOYEES FOR SAFETY VIOLATIONS

Mr. COUGHLIN. Probably the major mission of your agency is, indeed, the area of rail safety.

Mr. CARMICHAEL. Yes, sir.

Mr. COUGHLIN. Last fall you issued a final rule outlining the procedure to be used to disqualify railroad employees in safety-sensitive positions who violate railroad safety requirements. Congress granted this authority to the FRA in the Rail Safety Improvement Act of 1988. What options are now open to the FRA and how many times have they been used?

Mr. CARMICHAEL. I would like to let Mark Lindsey give the statistical answer to that, if you would.

Mr. LINDSEY. We have done no disqualifications yet, Mr. Coughlin, but that is among the options. This is very much a procedural rule. The rule is designed to fit as seamlessly as possible with our new authority to cite individuals for civil penalties, as well. We are looking to our inspectors in the field to use both of those tools, together with the ones they already had, against railroads, to enable them to get compliance from the industry.

Compliance is what we are really after rather than either getting people out or collecting fines. With respect to disqualification, in particular, we hope that when inspectors find individuals, be they management or labor, who are not responsive to other measures to exact compliance, that they will recommend that the individual be suspended for a period of time or disqualified for life.

Either can be done under the rule. The procedures are designed carefully to respect the rights of the individual charged and to afford him due process. We offer the individual an opportunity for an informal process, first, before proceeding to a fairly expensive and lengthier process that might involve counsel and a formal hearing on the record so that an individual will have a chance to come in and offer us any defenses or mitigating factors he may have. Or, if he wishes simply, in effect, to cop a plea, to do that quickly and inexpensively. If the individual wishes to contest it formally, however, he will be afforded a hearing on the record, and the opportunity to be represented by counsel of his choice to defend himself as fully as he may.

ACCIDENT REPORTING PRACTICES

Mr. COUGHLIN. On October 27, 1989, the FRA issued Notice of Special Safety Inquiry to look at railroad accident reporting practices to consider, (1) the return of repaired freightcars are serviced, (2) operating rules, (3) signal system failures, (4) employees service in excess of the maximum hours permitted, (5) timely reports and (6) serious accidents, and a separate category.

Have you started separate rulemaking focusing exclusively on improvements in accident injury reporting systems? Have you started that separate rulemaking?

Mr. LINDSEY. We have.

Mr. COUGHLIN. What is the status of it at this point?

Mr. LINDSEY. At this point, we have a formal safety inquiry in progress seeking overall industry commentary on our reporting procedures generally. Now, there is a companion rulemaking on the particular section 217 rules with which we had a problem. And we have an NPRM on the street on that. In each case, hearings are yet in the future.

STATUS OF SAFETY RULEMAKINGS

Mr. COUGHLIN. And there are three other safety rulemakings: drug and alcohol-prevention, tampering with safety devices, and locomotive operator qualifications. Could you tell me what the status of each of those rulemakings are?

Mr. CARMICHAEL. Tampering is done. That is completed.

Mr. COUGHLIN. That is complete?

Mr. CARMICHAEL. Yes, sir. And what was the other one?

Mr. COUGHLIN. Drug and alcohol prevention.

Mr. LINDSEY. We have had several on drug and alcohol. There was one that was kind of a catchall cleanup of our rules amending——

Mr. COUGHLIN. Of the old rules?

Mr. LINDSEY. Of the old rule, blending in random testing and sort of bringing the rule up to date. We had several things that we wanted to do while the litigation was pending. That rulemaking is completed. Random testing is also completed. That was a separate rulemaking. Both of those have been completed.

Mr. COUGHLIN. How about locomotive operator qualifications?

Mr. CARMICHAEL. That is in process right now. We have just had our first hearing in Chicago. We have gotten some pretty good sparks out of the hearings.

DRUG TESTING

Mr. COUGHLIN. As a result of another hat that I wear in the Select Committee on Narcotics Abuse and Control, let me ask: The FRA requires tests for drugs and alcohol within 8 hours of train wrecks. The Federal Aviation Administration requires tests for five drugs as soon as possible, but not later than 32 hours. Why are the time requirements not consistent and is there one central person in DOT who checks these things out? Or the possibility for one?

Mr. CARMICHAEL. I cannot comment on the FAA's 32 hours, but I think 8 hours is working real well in the railroad industry. I do not know what the discrepancy is.

Mark, do you have any other comments on why the FAA allows 32 hours?

Mr. LINDSEY. I do not know why the FAA has 32 hours, but two observations that I would add are (1) the Secretary does have a special assistant named Terry Gainer whose responsibility is alcohol and drug. And he is coordinating activities among the modes in the Department and I am sure he will be looking at issues such as this one.

Our experience is that if we are going to get an individual at all, somewhere within the range of 8 hours is certainly possible, if we are going to get him in time to test him at all. And that very much beyond that, the prospect of detecting much with regard to alcohol disappears.

Mr. **Coughlin**. I just want to congratulate the Federal Railroad Administration for having what I think is probably the most comprehensive drug testing program in any area of the transportation industry. And that is why I brought that question up.

Mr. **Carmichael**. Thank you, sir.

Mr. **Coughlin**. Mr. Chairman, I have other questions, but let me yield at this time.

Mr. **Lehman**. Mr. Durbin?

Mr. **Durbin**. Mr. Chairman, with the indulgence of the subcommittee, I would like to yield to this fine young Member to my right who has got to leave very shortly, Mr. Mrazek.

PRIVATE SECTOR INVOLVEMENT IN MAGLEV

Mr. **Mrazek**. I would like to thank my colleague, Mr. Durbin. He has been a close friend of mine for years, he just could not learn to pronounce my name.

Mr. Carmichael, thank you very much for coming. I am one of many Members of Congress who recognize that some very exciting things are happening on this planet, and that with respect to the companies that represent our high tech aerospace engineering base, there are a lot of questions about how those companies are going to constructively divert from the defense sector to alternative products that might be of benefit to our society.

One of the ideas that has been proposed to divert the military industrial complex, if you will, is magnetic levitation (Maglev) train systems. Now, obviously, there are a lot of consortiums around the country right now—Texas, Florida, California—that are looking at Maglev based upon the present level of technology—Japanese, German, French—and talking about going forward with some fairly massive projects.

Yet, there are others who believe that we can leapfrog that technology with an advanced Maglev. Maglev was invented here in the United States, and if we get back into it again in an aggressive way, there will be an opportunity for a lot of companies—I know General Dynamics is interested, and Grumman, on Long Island—who might be in a position if there was leadership from the Federal Government to really jump in. I was a little disappointed, I must confess, in the National Transportation Policy plan that there was not more enthusiasm about an approach that could involve the private sector in this country, putting our best engineering minds to work on how we can build magnetic levitation train systems here in the United States.

What I wanted to ask you is: Is this $6.1 million going to provide enough of an incentive for private industry to commit itself to Maglev in the kind of way that we do when it comes to building a Stealth Bomber or other weapons systems. Do you think this $6.1 million is enough of a start?

What are your views about the future of Maglev, and how we can bring the private sector into it?

MAGLEV TECHNOLOGIES

Mr. CARMICHAEL. Congressman, I have spent a fair amount of time in this technology, and I appreciate you asking the question because I would like to make some comments on it.

There are probably three Maglev technologies out there. Two of them we know right now. One is the German system, which is an attractive Maglev system where it levitates by lifting itself attractively and then propels itself down the track. The other one is the Japanese style that is repulsion, where they sit on the track and then repulse. And then it propels itself down the same track, a guideway.

The third may be an American technology, hopefully. There have been an awful lot of inventors, an awful lot of work and imagination in this project. The $6.1 million that we are asking for, plus the amount that the Corps of Engineers is asking for also, about $3.5 million, is more than enough seed money, engineering- wise and early research-wise, to find out if there is a third phase of Maglev in the United States that we could leapfrog the other two technologies.

Our approach to OMB was that we wanted to do two things with this type of money. First, we wanted to assess the technology that exists, the German and the Japanese technology, as quickly as possible. And the other one was we wanted to research the American scene, industry, inventors and universities to find out if there is a Stage 2. And we hit the ground running in January doing that, even though the money has not been appropriated and has not been signed. We are using our limited funds. Congress last year instructed us to do a quick and dirty survey of Maglev technology. We will have that ready for you in June of this year.

Frankly, the German technology is a finished product from what I can tell. They are ready to merchandise it. They have two systems going over there: steel-on-steel, high speed rail. It is called the ICE in Germany. They have spent $15 or $20 billion on it. And they have got themselves committed to connect the European Community with it. There is a real opportunity if the German technology is a finished technology for some country—the United States, hopefully—to dominate it.

Bechtel Corporation has been in my office, and they were over in Germany the other day when I went and looked at it, again, with the Secretary. They say they find no bugs in it. And they are going to work hard to try to bid that system on the Las Vegas-Los Angeles line this fall. It is about a 250-mile Maglev system.

The point in answering your question is that there is a finished product out there that is ready to be applied. The first one may actually be built between Orlando Airport and International Drive down in Florida. It is kind of a race between the California people and the Florida people on the thing. And we intend to stimulate the race. FRA's role is to do our safety regulations and a safety analysis as fast as they are moving with the process. We do not want to slow it down in any way. We want to be innovative.

So, I think we will be able to tell you in about 12 months what is out there in the American system for a leapfrog technology, but we also know that there is a finished product out there, too.

Mr. **Mrazek**. Basically, the Germans have invested $15 billion.

Mr. **Carmichael**. In their steel-on-steel technology and another billion dollars in Maglev.

Mr. **Mrazek**. And we are going to invest $6.1 million this year to think about it, to see whether we can forward with this technology in a breakthrough capacity, a leapfrog capacity.

Mr. **Carmichael**. Yes.

Mr. **Mrazek**. It seems to me——

Mr. **Lehman**. Would the gentleman yield?

Mr. **Mrazek**. Sure, Mr. Chairman.

Mr. **Lehman**. You mentioned high speed steel. That is not Maglev.

Mr. **Carmichael**. No, sir. They are two different technologies. There are three technologies in Europe that apply over here: tilt technology, high speed steel-on-steel and Maglev.

Mr. **Lehman**. Thank you. I am sorry, Mr. Mrazek.

FUTURE OF MAGLEV

Mr. **Mrazek**. That is all right, Mr. Chairman.

The point that I suppose I wanted to make is that we are talking about investing $15 billion and a lot more in a Stealth Bomber that the Air Force now tells us has a mission against terrorists. The Stealth Bomber is an anti-terrorism weapon of the future.

It would seem to me that at a time when it takes two or three hours to travel from Boston to Washington or from New York to Washington based upon the kind of problems we have in the Northeast Corridor, that if we could design and build a magnetic levitation train system to connect Boston and Washington down the interstate highway in an hour and a half, it would be a wonderful thing. The American people would really like that kind of a vision.

But I am wondering what we are going to do? We have two challenges: to rebuild our transportation infrastructure and figuring out what do we do with General Dynamics who we are paying a billion dollars a month to build everything from aircraft carriers to nuclear attack submarines?

It seems to me that there ought to be no doubt that we can leapfrog the existing Maglev technologies: If Grumman can make an F-14 that can fly 400 miles an hour and land with extreme duress on an aircraft carrier, it sure as hell can make the fuselage for a Maglev system. And it is disappointing for me to hear that we are thinking of going forward and allowing the Germans and the Japanese, who have not invested all of their national treasure in weapons that can never be used, but instead have been using it in research into transportation modes, that we should not move as quickly as we can. Not $6.1 million, but a substantial federal commitment that would jump-start American industries, because these companies need to know that the United States Government is really serious about Maglev. Six million dollars is not going to convince them of that.

The Maglev Advisory Committee recommended, the one that Moynihan set up, recommended $750 million for a national design competition. Start out with maybe eight competitive designs, break it down, work it in to two or three and then make an award. And then you have maybe $600 million for the first major system that would be built in this country. A lot of cities all over the United States could compete for it. And it would only be the first one. It would not be like the Supercollider, where when one wins, that is the last one to win. We are talking about all kinds of places in the United States that could use this sort of a system.

I guess I am not really asking a question here, but I am suggesting that I think that there are ways that we could go forward with a lot more seriousness, where the United States Government, where you as Federal leaders in the transportation area, might take a more aggressive role and saying, "Our guys can do it."

Mr. **Carmichael**. Yes, sir. I cannot disagree with you in the sense that I think Maglev is a new system of transportation. I think it can move people, 300 to 1,000 people at 300 miles an hour in extremely safe conditions. I think it will interface with our center cities and our airports and connect up to 300 to 600 mile surface cities and systems. It will help fill up the big new airplanes that are coming and the big new airports that people want to build.

I come from the school that infrastructure like this is an asset and an investment. I am doing my best, and I see and I hear the Secretary. He and I just spent four days together over in Europe looking at this technology in Maglev. I am getting signals from the White House that they are quite interested in it.

I believe a few months ago our consciousness was pricked. And now we are all in the stage of, "My God, there is something there." And, so, the steel-on-steel technology at 187 miles an hour from Paris to Le Mans is elegant technology. And there are private investors in this country that can see that if you move people that fast on those systems, you make money. So, the $6.1 million that we have I think can be another prick in the consciousness of it. We are in the process of identifying all the industries in the United States, including the defense industries, particularly. All of them have been to see me.

I think the awareness that there is a money-making opportunity out here and a new exciting technology is coming on. So, $6.1 million is good to get started. And I believe we can make the private sector do an awful lot of it.

Mr. **Mrazek**. I would just conclude, Mr. Chairman, by suggesting that if I had my druthers, I would like to suggest to people in Las Vegas or California that they do not buy the German technology, that they perhaps wait three years, and we get into Maglev in a big way and we will have a technology that is competitive. And all of these systems can be built here in the United States with American companies and American engineering know-how. And I think we could move that fast.

Mr. **Carmichael**. We are being very aggressive in FRA to take the lead on this and to get this quick and dirty report and to also assess the American capabilities. And we will work fast, I assure you of that.

Mr. **Mrazek**. Thank you, Mr. Carmichael. Thank you, Mr. Chairman.

Mr. **Lehman**. Mr. Durbin.

AMTRAK CORRIDOR IMPROVEMENT LOAN

Mr. **Durbin**. Thank you, Mr. Chairman.

Thank you for joining us today. If I could first ask a question relative to a project of local concern, the Amtrak service between St. Louis and Chicago has been I think a very beneficial and profitable one for Amtrak. It has not quite reached the level we hope it will, but it has shown great improvement.

Last year, this Subcommittee and the conference committee were kind enough to provide $3.5 million to the Secretary in loans to replace jointed rail with continuous welded rail on that corridor between Joliet and Granite City, Illinois. Does the existing jointed rail service between those two cities meet current operational and safety standards?

Mr. **Carmichael**. Mr. Walsh, can you address that?

Mr. **Walsh**. Yes, Mr. Durbin. We have worked very closely with the owner of the track. We have worked with the State of Illinois. We have also put money into it. And while there is still work to be done, we feel that we are making quite a bit of progress.

The biggest thing is the disruption through the bankruptcy out there that they have had in Illinois. But we are working very close with the owners to assure that the operation not only is safe, but we can increase the speed because increasing the speed is what is going to make it marketable.

Mr. **Durbin**. You would agree with the basic premise that the present jointed track serving this area is inadequate or at least in need of repair.

Mr. **Walsh**. The preference is welded rail. There is no doubt about it. Welded rail is used in many routes throughout the United States and if joined track is properly maintained, it is a safe operation.

Mr. **Durbin**. Of course, we have had many slow orders and we have had a lot of problems in maintaining a speed that is attractive to passenger service in that area. You would concede that the welded rail would enhance both safety and the speed of transportation over that route, would you not?

Mr. **Walsh**. The upgrading of the track and the inclusion of welded rail will make a big advancement to do away with the slow orders and allow Amtrak to operate at the appropriate speed.

Mr. **Durbin**. Can you give me any idea when the funds will be available to begin this work?

Mr. **Carmichael**. That is the $3.5 million?

Mr. **Durbin**. Yes, sir.

Mr. **Carmichael**. We have been negotiating with the company. At this point, Mr. McQueen may have a quick update on it.

Mr. **McQueen**. We are negotiating with both the state and the acquiring company. Those negotiations are moving fairly well. And we hope to get this money available for this construction season.

Mr. **Durbin**. Well, I would hope so, too. If we lost a year on this, it would be tragic. And I understand the bankruptcy change of ownership has complicated this somewhat; but it was my understanding through the Illinois Department of Transportation that substantial progress had been made very recently. And I was hoping today to get the green light——

Mr. **Carmichael**. Mr. Durbin, I believe we are right at the junction of coming to an agreement on the loan. I talked to some of the railroad people last night involved in it and they seemed to be ready to meet the terms.

Mr. **Durbin**. Well, we would hate to lose this construction season.

Mr. **Carmichael**. We will not.

Mr. **Durbin**. Anything you can do to expedite it——

Mr. **Carmichael**. I am a strong advocate of passenger service and passenger trains ought to be on welded rail.

HAZMAT ENFORCEMENT

Mr. **Durbin**. Thank you.

Let me move to an item which is high on your list of priorities and that is safety mentioned both in your written testimony and the verbal testimony you have given us today. You are undoubtedly familiar with the report from the Congressional Research Service which was issued just a few weeks ago concerning the hazardous materials transportation. Are you not?

Mr. **Carmichael**. Yes, sir.

Mr. **Durbin**. And some of the findings in that report are troublesome because they suggest that the FRA perhaps is not doing as good a job as it could do when it comes to the transportation of hazardous materials.

The gentleman who prepared the report concluded that the current Federal HAZMAT program merits concern. And one of the major problems facing DOT is conducting a vigorous and effective enforcement effort. They included in here a table of the civil penalties being collected by your agency for those HAZMAT violations. They show a rather dramatic decline in the numbers over the last several years. The difference, and these go back a couple of fiscal years, but these go back to fiscal year 1987, some $647,000 were collected in civil penalties. In fiscal year 1988, the number was down to $396,000.

They went on to analyze this and came to some conclusions. I note in your testimony that you have suggested the need for more inspectors. I certainly hope that we can find the money to bring you up to authorized levels on inspectors, but the conclusion from the Congressional Research Service was that you have a problem beyond the inspectors; and that is, in the adjudication of these claims. The delay that they cited in this report to the Government Operations Committee is pretty substantial.

Currently, there are more than 16,000 inspector reports alleging safety violations that are pending before your agency. In addition, it has an outstanding backlog of claim letters seeking $13 million of civil penalties that need to be settled. This is the largest backlog in recent memory. I quoted from this CRS report.

Can you tell me whether this is accurate? And, if it is, what are you doing to address it?

Mr. **Carmichael**. It is fairly accurate. And the aggressiveness of FRA in the last few years has increased the violations out there significantly. It is very interesting about FRA's mission and process of fines and collections. A lot of people think we are police officers and we give them a ticket and they show up in the court next Monday morning and plead guilty or not guilty.

We are in the process of assessing railroad companies and shippers. And now, individuals. The mission of FRA in dealing with railroad companies is to get a collection of violations, monitoring their whole operation. The 325 inspectors that we have onboard today are visiting 565 railroads, they are visiting each one of them.

PROCESSING OF VIOLATIONS

When people see those figures, we are overloaded. We have only got 13 lawyers on our staff to handle 9,000 violations a year. So, we admit that. We are having to use real high technology computer processing systems to speed the process. As I said in my statement, we are also shifting some FTEs around, legally, to give some additional lawyers to this process. And there has been a surge. When I got there last year and realized that we were low on our inspectors and we were getting behind on our violations, I started pushing this gentleman to my right and that one over there, and pushing them hard to get up to date.

I think in the first quarter of this year, they processed $8 million worth of violations and assessments. So, we are getting into a time frame that is more manageable and more legitimate; but, again, let me step back quickly to the mission. If we wanted to get the attention of a railroad, we need to collect some violations over a period of time and different disciplines of the railroad so that we have got a picture of that railroad's safety behavior and procedures and policy. Then we go sit down with that railroad. We may have some 24-month old violations with some 6-month old violations, collectively, and we will go sit down. To walk into a railroad with a $2,500 fine does not get very many executives' attention. But when we sit down in a settlement case with $250,000 worth of fines, we have got that railroad's attention. So, our process does involve a large collection or settlement process and it does mean that some of our violations are fairly old. But that is the way you get the attention of a corporation: You hurt it financially.

Mr. **Durbin**. Well, I am not going to quarrel with that. And I think you are right. And I practiced law before I got in here and I can recall asking juries for punitive damages and making the same argument, sometimes with success. But as I listened to your request, consider it, to increase the number of inspectors, it strikes me—if I can draw an analogy here—that we are dealing with a funnel. And you are asking us to increase the size of that funnel at the top. But the hole at the bottom is not changing.

And if, in fact, you have this backlog and you are not processing, all of the inspectors in the world will increase your backlog and will not increase the amount of money which you are collecting from these corporations to get their attention.

I will tell you, if I am in the shoes of a railroad sitting out there and the FRA just said, "You are in violation." I have got to tell my people at the next board meeting, "Do not worry about it this quarter or next quarter or the following quarter. They may never get to us. And the good news is when they get to us, they are only collecting 47 cents on the dollar." That is what the CRS report says as well.

VIOLATION FINES COLLECTED

Mr. **Carmichael**. That is the tendency to take, since you are an attorney and I am not, but I will try to explain this. When you take averages, lots of times numbers can fib to you.

In settling violations with a railroad, say we have got 50 of them that cover the whole spectrum of things, 25 may have solid evidence that they cannot argue with. Another 15 of them may have some mitigating circumstances. And they produce some evidence that we did not have. And so those are reduced. The other 10 may be weak. We though we had good strong evidence but when we get into the things, we lose those.

Now, the critics of FRA will average all that together. And not only will they average that, we find 400,000 or 500,000 defects out there on the railroads. A defect is reported to the railroad, but not a violation. If the defect stays there, it could become a violation. So, they will take all the defects and the settlements and they average it out and say, "We can get $7 per violation." That is not true.

Mr. **Durbin**. I understand what you are saying.

Mr. **Carmichael**. Okay.

Mr. **Durbin**. But I would have to tell you, and we could argue this without looking at the individual cases, it may not be fair to generalize too much.

Mr. **Carmichael**. Right.

Mr. **Durbin**. But I have to suggest to you the figures I read earlier about the decrease in the actual civil penalties being collected, almost a 50 percent decrease between two fiscal years.

Mr. **Carmichael**. In Hazmats.

Mr. **Durbin**. In Hazmats.

Mr. **Carmichael**. That is right.

Mr. **Durbin**. Suggests to me that even applying these averages, there has been quite a decline in the amount of money that your agency has collected.

Mr. **Carmichael**. Let Mark add a comment there, please?

Mr. **Durbin**. Sure.

Mr. **Lindsey**. I think you will find that a one-year aberration, Congressman. When you get the numbers for 1989, you will find that it was over $700,000. I am not exactly sure why 1988 was so low.

Mr. **Durbin**. Bad law school class or what?

[Laughter.]

Mr. **Lindsey**. No. We were even lower on lawyers in 1988 and doing an awful lot of rulemakings out of the Rail Safety Improvement Act of 1988 and I am sure that was some factor. But it also seemed that there were simply fewer cases that got processed that year than usual, even compared with most of what we were doing.

INCREASE IN INSPECTORS

Mr. **Durbin**. I am glad to hear that, but let me try to bring this down to specifics, if I can. If you had 300 cops on the beat and you were 16,000 cases behind. There were $13 million in penalties out there and you want to give people across America the assurance that railroads are being operated safely, you tell them that you want to put on a 20 percent increase in the number of cops on the beat: 60 more over two fiscal years. So you get up to your authorized level. I am asking you what about the courtrooms and the judges and the jails? What is being done on that end of it? Because, clearly, under the old numbers, the number of inspectors out on the beat, you could not keep up with it. And, now, you want to increase the number of cops on the beat by 20 percent.

What are you going to do to keep up with the penalties that they are going to try to assess, the violations that they find and bring in some money into the Treasury when it is due? And I am not assuming the railroad is always wrong in this situation. I am sure many times they are found not to be guilty. But what are you doing on that end of it?

Mr. CARMICHAEL. I would say I have to come back again to the process that we use. We have 361 Federal inspectors to cover the whole United States railroad industry, a huge mode with 200,000 miles of track. Taking about 15 or 16 attorneys, our mission is to do a strategic sampling of the violations, of the irregularities and safety procedures of these railroads and to collect a sufficient amount of money or to fine a sufficient amount of money to be a deterrent to these railroads and shippers and, now, to the employees. Going up to 361 Federal inspectors does not mean that we will go up to 15,000 or 20,000 violations. We are finding defects. And we are following up on defects and we are following up on procedures, on safety procedures. We are monitoring the safety programs of the railroads.

I recognize that going up to 361 inspectors and not going up another 100 lawyers or something else like that, if we were just going after violations in large quantities, our job is to collect sufficient violations, sufficient penalties, fines, to make them walk, talk, eat and sleep safety. And it has got to be strategic and scientific. And it has to be carefully planned so that you do not overload the system. We are going to have to use the best computer technology we have got. I think we are moving well in that direction with the safety training director and with the computer technology that we are applying to processing this.

I do not think you are going to see 15,000 or 20,000 violations a year. You will probably see the same neighborhood of 9,000 to 10,000.

Mr. DURBIN. So, you are going to increase the number of cops on the beat by 20 percent, but you do not expect to find many more violations of the law?

Mr. CARMICHAEL. Well, we hope to do a better job of deterring these actions or behaviors of the railroad industry and the shippers, themselves, you see. It is a teaching process. It is a monitoring process. It is not trying to find the 40 million violations out there and to collect a billion dollars worth of fines off of the industry. It is not that type of process.

That is one of the interesting things about the public's perception of FRA's inspection process. It is a strategic, scientific, monitoring of the railroad safety programs and the railroad safety procedures and giving the railroads a good analysis of how they are behaving and what they are doing.

ADDITIONAL ATTORNEY POSITIONS

Mr. DURBIN. How many additional attorneys were requested by the Office of Chief Counsel?

Mr. CARMICHAEL. I will let Mark add a comment on that.

Mr. LINDSEY. How many did we ask for in the budget process?

Mr. DURBIN. Yes. Well, go back a step. The Safety Division in the Office of Chief Counsel, how many were they asking for to start with?

Mr. LINDSEY. Early in the budget process, 10.

Mr. DURBIN. Where did you end up when you came to this Subcommittee? What are you looking for?

Mr. LINDSEY. 2. I would add——

Mr. DURBIN. I do not know. Something is missing here. I guess I am just missing the point. You have got a backlog which the Congressional Research Service describes. Really, this is not a very nice report for an agency.

HAZMAT ACCIDENTS

Mr. CARMICHAEL. Let me add one thing to that HAZMAT figures that you have got. Since 1980, there have been no fatalities in HAZMAT, directly related HAZMAT accidents.

Mr. DURBIN. I want to tell you: The folks that I represent in Roodhouse, Illinois are not happy to hear that. They had a train derailment a couple of years ago that just scared the hell out of folks. They had to evacuate. And we were lucky. Nobody got killed. Thank goodness.

Mr. CARMICHAEL. The equipment worked.

Mr. DURBIN. Yes, it sure did. But I want to tell you: It was a close call. The rail lines that pass through my part of the world as in most come perilously close to a lot of homes and residences. And thank goodness this derailment did not occur there.

This CRS study concluded, it said: "Finally, there is always the option of letting FRA continue to gradually improve its hazardous materials program at its own pace. Reliance solely on this option could prove rather risky because the catastrophic potential of hazardous materials and the substantial evidence of the need to improve FRA's program." I am all for 60 inspectors, but 60 inspectors, 2 lawyers. This kind of case load tells me we are missing something here. There just seems to be an element.

I know the subcommittee and Chairman have other questions along these lines and I will defer to them because I know they will be getting into more detail.

CRS ENFORCEMENT REPORT

Mr. LEHMAN. Thank you, Mr. Durbin. Would you like to have the CRS Report included in the hearing record?

Mr. DURBIN. Yes, I would if the subcommittee would agree.

Mr. LEHMAN. Without objection.

[The information follows:]

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FRA's Hazardous Materials Transportation Enforcement Effort

Testimony of Dr. Paul F. Rothberg
Science Policy Research Division
Congressional Research Service

Submitted to the
Subcommittee on Governmental Activities and Transportation of the
House Committee on Government Operations

February 28, 1990

Chairwoman Collins and Members of the Subcommittee,

The Congressional Research Service appreciates this opportunity to contribute to your oversight hearing on the Federal Railroad Administration's (FRA's) hazardous materials transportation program.

During the last 17 years, I have had the responsibility at CRS of analyzing the effectiveness of DOT's hazardous materials (hazmat) transportation safety program. Based on this experience as well as several recent CRS reports, I would like to discuss DOT's hazmat program and focus on FRA's enforcement activities.

Reports by the congressional support agencies and NTSB have concluded that the current Federal hazmat program merits concern. Much more could be done to meet the basic goal of the Hazardous Materials Transportation Act (HMTA). This goal is "to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation against the risks to life and property which are inherent in the transportation of hazardous materials in commerce."[1]

THE "VIGOR" OF DOT's HAZMAT ENFORCEMENT EFFORTS

One of the major ways that DOT could promote hazmat safety is by conducting a more vigorous and effective enforcement effort. As discussed below, there is much opportunity to strengthen DOT's program.

Table I shows for fiscal years 1985-1988 the total amount of civil penalties collected by the five DOT modal administrations for alleged violations of the Hazardous Materials Transportation Regulations.

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[1] P.L. 93-633.

TABLE 1. Total HAZMAT Civil Penalties Collected By DOT Administrations for Fiscal Years 1985-1988

	FY85	FY86	FY87	FY88
FAA - Air	291,100	383,250	305,900	154,100
FHWA - Highway	437,225	366,500	292,300	218,650
FRA - Rail	655,050	621,575	646,750	396,425
RSPA - Intermodal	127,925	79,163	126,625	335,900
USCG - Water	104,100	23,645	83,150	87,900
TOTAL DOT	$1,615,400	$1,474,133	$1,454,725	$1,192,975

Source: DOT

Because the total amount of DOT's penalties decreased each year, one could question DOT's commitment to a vigorous hazmat enforcement program during these years.[2] There is no quantitative data to substantiate that the level of compliance with the Hazardous Materials Transportation Regulations improved during this period.

Table 1 shows that the vigor of FRA's hazmat program also decreased during these years as measured by the amount of civil penalties collected. The most frequent and effective means that FRA uses to deal with serious violations of the Hazardous Materials Transportation Regulations is the assessment of civil penalties. Because other strategies are used, the effectiveness of FRA's enforcement efforts should not be measured solely on the amount of civil penalties collected. This bottom line impact, however, is of substantial interest to industry and of much concern to Congress because low penalty assessments send the wrong message to industry.

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[2] The FY 1989 civil penalties have not yet been published. Some of the modal administrations increased the amount of civil penalties collected for alleged violations, of the hazmat regulations during FY 1989 as compared to FY 1988.

FRA's ENFORCEMENT CASE PROCESSING

An effective safety program requires that the time between when a violation is first noted and when a civil penalty for that violation is collected be a minimum. Our analysis indicates that the FRA usually does not settle its enforcement cases in an expeditious manner and historically has faced a considerable processing backlog. In 1987, we concluded that FRA's ability to do a better job in promoting rail safety was partly constrained by the small number of FRA safety attorneys.[3] We found that there was a huge workload facing this staff. The same situation exists today. Currently, there are more than 16,000 inspector reports alleging safety violations that are pending before the FRA. In addition, it has an outstanding backlog of claim letters seeking $13 million of civil penalties that need to be settled.[4] This is the largest backlog in recent memory.

Although much of the backlog does not specifically involve alleged violations of the HMTA, many of the cases deal with hours-of-service, operating rules, equipment regulations, and track safety. All of these may affect the transportation of hazardous materials by rail.

It takes years before FRA's Office of Chief Counsel settles many of its enforcement cases. For example, FRA only recently transmitted all of its claim letters on its outstanding 1987 cases. A two-year lapse between discovery of a serious probable violation and final settlement of the consequent civil penalty is common for FRA's hazmat enforcement cases.[5]

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[3] CRS Issue Brief on Railroad Safety, 1987 and 1988 editions.

[4] Personal communication with FRA staff, 1990.

This Agency does not have, and has not asked Congress for, sufficient legal and support staff necessary to expeditiously process and settle cases.[6] This is one of the weakest links in FRA's safety program. Because of an increase in the number of FRA inspectors and because of an increase in the legal complexity of some enforcement actions authorized by the Rail Safety Improvement Act of 1988, the problems facing FRA's Office of Chief Counsel will continue unless additional staff is provided.

The timely processing of these enforcement cases is essential. If the Subcommittee wants to improve FRA's program, you might consider recommending to the Appropriations Committees an increase in the staff of FRA's Office of Chief Counsel. More expeditious and careful processing of these cases would easily pay for additional staff.

COMPROMISING OF CIVIL PENALTY ASSESSMENTS

FRA is required by the HMTA to consider many factors in setting final civil penalty amounts for violations of regulations issued under this Act. FRA does a good job considering mitigating and other factors that lead to reduced final penalty settlements. In fact, of the hazmat cases closed last fiscal year, for every $1.00 of original assessment, FRA agreed to a final settlement figure of roughly 47 cents.[7] For these hazmat cases, FRA originally asked for about $1.36 million in civil penalties and settled for roughly $636,460.

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[5] Ibid.

[6] In the FY 1989 budget request, FRA asked for additional attorneys for its safety program. Although this request was approved, the number of attorneys funded was still insufficient to address FRA's substantial regulatory and enforcement case backlog.

Does this practice of compromising send the right message to industry? Although compromise of civil penalties is an essential element of the overall enforcement process, final assessments that are too low do not serve much purpose. In fairness, it is important to note that FRA has collected more than $25 million in penalties for all different types of violations during the last seven years out of some $37 million in penalcy assessments.[8]

As part of its report on this topic, the Subcommittee might consider the option of recommending that a minimum civil penalty amount be specified in the HMTA. This provision would send a strong signal to industry, and it may reduce the amount of compromising that occurs. Such a provision, however, would reduce the administrative flexibility of DOT.

HAZMAT INSPECTOR RESOURCES

There are two concerns regarding DOT's inspectors dealing with hazmat: one is allocation of the inspector's time among the different DOT modes; the other is size of inspector force.

In order to improve the effectiveness of its program, DOT might analyze how the time of its safety inspectors dealing with hazmat is distributed among the DOT modal administrations. DOT's program may benefit from an analysis of the relationship between the current allocation of DOT hazmat inspector time (as measured in man-years of effort) to where the hazardous materials incidents, deaths, and injuries have been occurring or are likely to occur.

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[7] If claims that were later terminated are included, this figure is roughly 51 cents. All data on penalty assessments and collections were provided by FRA.

[8] FRA memorandum dated Nov. 7, 1989.

The Subcommittee might consider requesting DOT to conduct a multimodal risk assessment relating risk to inspector assignment and time.

With current budget limitations, it is highly unlikely that FRA or any of the DOT Administrations will ever have an "adequate" number of inspectors. The recent GAO report on FRA's hazmat program provides overwhelming documentation of the need for additional FRA inspectors; however, the need for additional safety investigators in other modes, especially in the FHWA, is also pressing.[9],[10] It is in the highway mode that almost all of the deaths and the great majority of injuries resulting from releases of hazardous materials historically occur.

OTHER OPTIONS TO IMPROVE FRA's PROGRAM

There are other options that the Subcommittee might consider. These include:

1. If State inspectors were authorized in statute to enforce the Federal hazmat regulations affecting rail transportation, safety would benefit. State resources could help make up shortages of Federal hazmat rail inspectors. The submittal of cases brought by certified State inspectors to a uniform civil

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[9] This conclusion takes into account the activities of many State inspectors conducting hazardous materials inspections along the roadside and recent increases in the number of FHWA staff.

[10] See CRS report printed as: U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program. 101st Cong., 1st Sess., U.S. Govt. Print. Off., Apr. 1989. 113 p.

penalty processing system could reduce some of industry's opposition to this option.

2. This Subcommittee has long been concerned with the adequacy of DOT's training regulations for workers handling hazardous materials. In July 1986, CRS testified before this Subcommittee pointing out substantial problems with the existing regulations. DOT has taken note of our report and has started the process of improving its regulations. Final "revised" regulations have not yet been issued and these proposed regulations leave room for considerable improvement. The Subcommittee may wish to reiterate its concerns in this area.

3. Finally, there is always the option of letting FRA continue to gradually improve its hazardous materials program at its own pace. Reliance solely on this option could prove rather risky because of the catastrophic potential of hazardous materials and the substantial evidence of the need to improve FRA's program.

Thank you for this opportunity to present our analysis of FRA's hazmat enforcement program.

STATUS OF RAIL INDUSTRY

Mr. LEHMAN. What is the overall state of the rail industry today, and how does that compare to one year ago?

Mr. CARMICHAEL. The state of the industry, sir? I think it is good and getting better. And I think the industry, itself, now realizes it is not going out of business. It has a major role to play in this nation's transportation system.

I think the Secretary's transportation plan recognized that the inclusion of the railroad mode was extremely important in our transportation solutions. We have three different types of railroads. There are 565 total. About 20 of them fall into the Class I, the big railroads. They are very healthy. And they are getting safer all the time.

The Class IIs are made up of what we call, or I call, old regional railroads that were in existence prior to 1980. Since 1980 and the Staggers Act, there are about 225 or 230 new railroads, regional railroads that have taken on a railroad track that worries me very much. I was involved in the creation of one of these regional railroads. Those railroads are fragile, aggressive, entrepreneurial. They are generating 15 percent of the business now that is being fed into the main lines. They are like the feeder airline systems working with the major carriers in the airline business.

I feel like the industry, itself, is out hustling. It is investing its own money in its infrastructure. In the case of the HAZMAT that we were just talking about awhile ago, these major carriers of hazardous materials are doing an excellent job of new technology and supervisory and control of hazardous materials.

Generally, Mr. Chairman, the industry is kind of in what I call a regeneration. There is a new railroad industry on its way out there and it looks real good.

Mr. LEHMAN. Please expand on your answer for the record, citing pertinent statistics.

[The information follows:]

After record-breaking 1987 and 1988 traffic levels, the railroad industry repeated its 1988 revenue ton-mile performance in 1989. The 1989 results were mixed; among the declining commodities, grain shipments were down 7 percent, due to decline in wheat exports; primary metal products declined 7 percent in connection with reduced demand for durable goods; and lumber and wood products were down 8 percent with the slowdown in residential construction. Among major rail-shipped commodities gaining traffic, coal traffic increased 2 percent, chemicals rose 2 percent, and intermodal traffic (trailer-on-flatcar and container-on-flatcar) grew 3 percent.

Average annual employment for the Class I railroads as a group (including Amtrak) declined 3 percent from 1988 to 1989, from 259,300 to 251,600. The sharp downward trend in the industry's employment during the last 10 years is continuing as several railroads pursue early retirement and employee "buy-out" programs, with the goal of reducing labor costs which represent roughly half of the industry's operating expenses.

Railroad industry profitability has improved since Staggers, with the rate of return on net investment generally in the 4 to 6 percent range compared to the 1 to 2 percent range in the 1970's. (The two numbers cannot be compared directly, because of a change in accounting methodology that become effective in 1983.) For the 12 months ending 9/30/89, the ICC reported that the Class I railroads earned 6.45 percent return on net investment, excluding special charges.

Rail traffic volume for 1990 is forecast to be relatively flat compared with 1989. Coal, the top commodity carried by the railroads, is expected to grow by 1 to 2 percent in 1990, in line with industry and government forecasts of coal production. Intermodal traffic and chemicals are expected to continue their upward trends, growing by 2 to 3 percent each, while durable goods, such as primary metal products and motor vehicles and parts, will experience declines. Railroad employment is forecast to decline by approximately 3 percent to 243,000 in 1990, in part due to the continuation of early retirement programs.

RAIL TRAFFIC GROWTH

Mr. LEHMAN. In the Department of Commerce's Industrial Outlook for 1990, they concluded that rail traffic would be relatively flat for 1990, but would then grow by 1 to 1.5 percent over the next five years. Would you agree with that assessment? In which rail commodities will these gains be realized?

[The information follows:]

The railroad chapter in the Department of Commerce's "Industrial Outlook" is written by an economist in our Office of Policy. His forecast that rail traffic is expected to be relatively flat for 1990, but should grow by an average of 1 to 1.5 percent a year over the next five years, continues to be a reasonable forecast. This estimate is based on forecasts by an economic forecasting firm and discussions with railroad and shipping industry experts.

This anticipated traffic growth will be provided primarily by some of the major commodities carried by rail, with intermodal traffic gaining strongly, and above average growth for grain and chemicals.

FINANCIAL HEALTH OF SHORTLINES

Mr. LEHMAN. What is the financial health of the shortlines, branch lines, and regional railroads, in general?

[The information follows:]

The Federal Railroad Administration's small railroad infrastructure report to Congress issued in February 1989, which surveyed these carriers to determine their maintenance and rehabilitation needs, found that approximately 90 percent of the local railroads that began operation since 1980 and all of the regional railroads formed in that time were being operated in some form in mid-1988. Although few would be considered highly profitable, most are able to provide services and remain in business.

The FRA report found that the largest amount of deferred maintenance appears to be on lines least used. It found that 85 percent of the carloads reported by small railroads were accounted for by carriers with no rehabilitation needs or no needs beyond what they can cover from internal funds. In addition, some small railroads can obtain commercial loans for their rehabilitation needs. Shippers and local government bodies served by the small railroads also represent a valuable source of funds to finance rehabilitation. Those are the groups who benefit directly from the existence of these railroads and they are best positioned to judge the value and need for improvements.

In general, the railroads with the highest traffic density (in terms of carloads per mile) should be able to finance a significant share of the costs of rehabilitation without external funding. The railroads in the lower traffic density categories, however, face estimated rehabilitation needs several times greater than their total annual revenues. With the low profit margin that small railroads typically achieve, such a burden would be extremely difficult for the carriers to bear. Furthermore, even if the one-time rehabilitation costs were met, the ongoing maintenance cost per carload for the lowest density railroads would be so high relative to revenues that deferred maintenance would be likely to continue to accumulate. The shortline, branch line and regional railroads are not required to report to the Interstate Commerce Commission. Consequently, we do not have more current information about their financial health.

Many of the shortlines with the lowest traffic density would have difficulty meeting the costs of maintaining track and structures, even if they are able to obtain funding for needed rehabilitation work. Over time, these railroads are likely to cease operation because they are not economically viable.

TECHNICAL ASSISTANCE

Mr. LEHMAN. Financing for shortline railroad—now, shortline means regional, I assume.

Mr. CARMICHAEL. Yes, sir.

Mr. LEHMAN. The capital needs could take several forms: internal funding, commercial loans, financing from shippers or larger railroads, state assistance, or Federal assistance. What should be the Federal role in providing such financing, and does your fiscal year 1991 budget include such funds?

Mr. CARMICHAEL. I would like to talk to just one small item. It is in the request. And that is a $75,000 request for technical assistance to these regional railroads. A lot of them need help with computer software. They need help with reporting and training procedures.

I think the FRA's role is to help them develop these techniques. In a sense, deregulation in 1980 helped create these railroads. And we want to keep them independent and profitable and private. And, so, technical assistance right now is one of the things that FRA can do for these regional railroads.

They do not have a big association like the AAR does for the big railroads. So, we are playing an intermediate role here in helping them technically. And a lot of the individual Congressmen and the Senators are watching after some of the individual railroads through earmarking. But the FRA's technical assistance is a very deliberate plan to help them.

SECTION 511 LOAN GUARANTEES

Mr. LEHMAN. What is your view of using Federal loan guarantee authority, as authorized in section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, for this purpose? What have you proposed in the fiscal year 1991 budget in this regard?

[The information follows:]

The Department is not convinced that Section 511 funding should be provided at this time. Last year the Department provided a report to the Appropriations Committee estimating the extent of deferred maintenance of the tracks of regional and shortline railroads. Whereas that study showed a total need of $600 million, it likewise showed that the majority of the traffic was on railroads with little or no need for external funding for the needed rehabilitation. We also believe that state and shipper programs may be a source of funding. In addition, in recent years private banks have provided significant funding for regional and shortline railroads. Since Section 511 funding could be provided on more favorable terms than non-guaranteed private bank financing, such government competition would tend to disrupt the private lending market.

In any event, much of the required work may not be eligible for section 511 funding because the prospective earning power of the company and its assets to be offered as security, in all likelihood would not support a finding that these loans would be repaid. These companies are usually highly leveraged with most assets encumbered.

The Administration has not proposed funding of Section 511 authority in the FY 1991 budget.

SHORTLINE FORMATION

Mr. LEHMAN. Are you recommending any capital needs, capital assistance to these shortlines?

Mr. CARMICHAEL. No, sir.

Mr. LEHMAN. The FRA stated last year that the Pittsburgh and Lake Erie (P&LE) case pending before the U.S. Supreme Court "has really put a dent in shortline formation. The outcome of that case will have a major influence on whether or not shortlines continue to be formed or whether trackage gets abandoned". This decision was rendered a few months ago, and the ICC gave us their opinion on it last week. Would you give us your opinion, especially as it relates to the sale or abandonment issue, itself?

Mr. CARMICHAEL. Well, I come from the school of business that when you buy something, you buy its assets and you do not buy its liabilities. I think that is probably what is happening in the P&LE case where they may have to take some of the liabilities if they buy it.

I had a report last night telling me that the ICC had ruled one way on the P&LE, and then this morning I got a contrary one. So, I do not know right now just which way the ICC has moved on this P&LE case. It is very important that a decision be made soon so we can get back into the creation of these regionals. I know of several regional railroads that are in the process of wanting to be created or come on line.

Mr. LEHMAN. If the decision goes the wrong way, would that provide an actual incentive to abandon these routes instead of to operate them?

Mr. CARMICHAEL. Yes, sir. A buyer would not want to buy the liabilities. He would want to buy the assets. And if he has to buy the liabilities, then that is going to abandon the track more than likely.

Mr. LEHMAN. Please expand on your answer and provide statistics on the amount of shortline rail trackage taken out of service annually, and the trends in that area.

[The information follows:]

Since shortline carriers are not required to report abandonments or the event of discontinued operations, accurate data concerning trackage taken out of service each year is unavailable. Estimates from a review of several studies, however, demonstrate that shortline carriers formed since 1970, including switching and terminal railroads, removed approximately 1,500 miles of line from service between 1980 and the first half of 1989. The period from 1982 through 1986 accounted for nearly two thirds of this trackage. Beginning with 1982 and the removal of approximately 100 miles of track, this number increased through 1986, when nearly 400 miles were taken out of service. The years immediately following 1986 illustrate a dramatic shift downward in lines taken out of service: approximately 90 miles in 1987, 40 miles in 1989, and 25 miles through the first half of 1989.

During this same period, however, shortline development was brisk. The 203 carriers formed since 1980 and still operating account for nearly 15,000 miles of road in operation. In 1988, only 13 carriers began operations, the slowest rate of formation since 1981. However, through the third quarter of 1989, the pace of formation increased to 25 carriers for this same period beginning in 1980, a number more representative of the previous years.

PITTSBURGH AND LAKE ERIE RULING

Mr. LEHMAN. Please provide the Supreme Court syllabus from the Pittsburgh and Lake Erie case and associated summaries of the dissenting opinions of Justices Stevens, Brennan, Marshall, and Blackmun.

[The information follows:]

A copy of the syllabus of the Supreme Court's decision in *Pittsburgh & Lake Erie R.R.* v. *Railway Labor Executives' Ass'n*, ____ U.S. ____, 109 S.Ct. 2584 (1989), and a copy of the disssenting opinion by Justice Stevens are attached.

> "While one cannot dispute the basis for [Congress' concern that an election commission exist not in whole of presidential appointees] as a practical matter, it would seem that those who sought to challenge incumbent Congressmen might have equally good reason to fear a Commission which was unduly responsive to members of Congress whom they were seeking to unseat. *But such fears, however rational, do not by themselves warrant a distortion of the Framers' work.*" *Id.*, at 134, 96 S.Ct., at 689 (emphasis added).

It is also plain that the application of FACA would constitute a direct and real interference with the President's exclusive responsibility to nominate federal judges. The District Court found, "at minimum, that the application of FACA to the ABA Committee would potentially inhibit the President's freedom to investigate, to be informed, to evaluate, and to consult during the nomination process," and that these consequences create an "obvious and significant potential for 'disruption' of the President's constitutional prerogative during the nomination process," 691 F.Supp. 483, 493 (DC 1988), and these findings are not contested here. As we said in the context of the pardon power, "[t]he simplest statement is the best." *United States v. Klein,* 80 U.S. (13 Wall.), at 148. The mere fact that FACA would regulate so as to interfere with the manner in which the President obtains information necessary to discharge his duty assigned under the Constitution to nominate federal judges is enough to invalidate the Act. "We think it unnecessary to enlarge." *Ibid.*

For these reasons, I concur in the judgment affirming the District Court.

PITTSBURGH & LAKE ERIE
RAILROAD COMPANY,
Petitioner,

v.

RAILWAY LABOR EXECUTIVES'
ASSOCIATION et al.

PITTSBURGH & LAKE ERIE
RAILROAD COMPANY,
Petitioner,

v.

RAILWAY LABOR EXECUTIVES'
ASSOCIATION.

Nos. 87-1589, 87-1888.

Argued March 29, 1989.

Decided June 21, 1989.

Association of executive officers of railroad unions sought declaratory judgment with respect to railroad's obligations under Railway Labor Act and injunction against its sale of assets pending completion of bargaining obligations under Act. Railroad sought to enjoin strike. The United States District Court for the Western District of Pennsylvania, Alan N. Bloch, J., entered injunction, but the Court of Appeals, Sloviter, Circuit Judge, 831 F.2d 1231, summarily reversed. On remand, the District Court, 677 F.Supp. 830, entered judgment for association, and appeal was again taken. The Court of Appeals, Becker, Circuit Judge, 845 F.2d 420, affirmed, and petition for review was filed. The Supreme Court, Justice White, held that: (1) railroad was not obligated to bargain over sale; (2) railroad's decision to sell was not change in conditions of employment forbidden by Act's status quo provision; and (3) injunction against strike was forbidden unless strike was contrary to unions' duty under Act.

Reversed and remanded.

Justice Stevens, with whom Justices Brennan, Marshall, and Blackmun joined, concurred in part, dissented in part, and filed opinion.

1. Labor Relations ⇐416.4

Railway Labor Act did not require or authorize injunction against railroad's sale of assets. Railway Labor Act, § 6, as amended, 45 U.S.C.A. § 156.

2. Labor Relations ⇐178, 263

Railroad did not have to give notice of proposed "change" in its express or implied agreements with unions when it contracted to sell its assets, and was not obligated to bargain about impending sale or to delay its implementation. Railway Labor Act, § 6, as amended, 45 U.S.C.A. § 156.

See publication Words and Phrases for other judicial constructions and definitions.

3. Labor Relations ⇐177

Absent statutory direction to the contrary, decision by railroad employer to go out of business and consequently to reduce to zero the number of available jobs is not change in conditions of employment forbidden by status quo provision of Railway Labor Act. Railway Labor Act, § 6, as amended, 45 U.S.C.A. § 156.

4. Labor Relations ⇐177

When unions representing railroad employees filed notices proposing changes in existing collective bargaining agreements to ameliorate adverse impacts of railroad's proposed sale of its assets, railroad had duty to bargain to extent that unions' proposals could be satisfied by railroad itself rather than by buyer; however, such proposals were bargainable only until date for closing sale arrived, after exemption from requirements of Interstate Commerce Act was obtained from ICC. Railway Labor Act, § 6, as amended, 45 U.S.C.A. § 156; 49 U.S.C.A. §§ 10505, 10901(e), 11347.

5. Labor Relations ⇐858

Interstate Commerce Act created no duty that Norris-LaGuardia Act's general limitation on issuance of injunctions in labor disputes had to accommodate, and Norris-LaGuardia Act forbade injunction against unions' strike after railroad's sale of assets was exempted from requirements of Interstate Commerce Act by ICC unless strike was contrary to unions' duties under Railway Labor Act. Railway Labor Act, § 1 et seq., as amended, 45 U.S.C.A. § 151 et seq.; Norris-LaGuardia Act, § 4, 29 U.S.C.A. § 104; 49 U.S.C.A. § 10901.

6. Labor Relations ⇐804

Union may be enjoined from striking when dispute concerns interpretation or application of its contract and is therefore subject to compulsory arbitration.

7. Labor Relations ⇐858

Norris-LaGuardia Act's prohibition against issuing injunctions in labor disputes must give way when necessary to enforce duty specifically imposed by another statute. Norris-LaGuardia Act, § 4, 29 U.S.C.A. § 104.

Syllabus *

Faced with heavy losses, petitioner Pittsburgh and Lake Erie Railroad (P & LE) agreed to sell its assets to P & LE Rail Co., Inc. (Railco), a newly formed subsidiary of another railroad. Railco intended to operate the railroad as P & LE had except that it would not assume P & LE's various collective-bargaining contracts and would need only 250 of the 750 employees then working for P & LE. P & LE rejected the assertion of the unions representing its employees that the proposed sale could not be implemented until P & LE complied with Railway Labor Act (RLA) provisions prohibiting carriers from changing rates of pay, rules, or working conditions embodied in agreements, 45 U.S.C. § 152, Seventh, unless they first give at least 30 days' written notice of, and proceed to bargain over, the intended agreement change, § 156. Section 156 also requires that the working conditions in question remain in status quo until the controversy is resolved. Most of the unions then filed § 156 notices proposing extensive changes in existing agreements to ameliorate the proposed sale's adverse impact on employees. P & LE again refused to bargain, asserting that the sale was within the exclusive jurisdiction of the Interstate Commerce Commission (ICC) under the Interstate Commerce Act (ICA), which requires that noncarriers such as Railco seeking to acquire a rail line first obtain the ICC's approval, 49 U.S.C. § 10901. Respondent Railway Labor Executives' Association (RLEA) filed suit on behalf of the unions in the District Court, seeking a declaratory judgment with respect to P & LE's RLA obligations and an injunction against the sale pending completion of RLA bargaining. The unions then went on strike, and the District Court denied P & LE's request for a restraining order on the ground that the Norris-La-Guardia Act (NLGA) prohibited it from enjoining a work stoppage growing out of a labor dispute. Subsequently, Railco filed an application for exemption from § 10901's requirements pursuant to the ICC's Ex Parte No. 392 Class Exemption (*Ex Parte 392*), which provides abbreviated procedures for seeking approval for acquisitions by noncarriers of an operating railroad or its assets, and the ICC allowed the exemption to become effective on the date required by *Ex Parte 392*. Although § 10901 and *Ex Parte 392* allow the ICC to require the acquiring company to provide protection for railroad employees affected by a sale, none of the unions requested protective provisions. The District Court then granted P & LE's reapplication for an order restraining the strike, ruling that the ICC's approval of the sale negated any duty that P & LE had to bargain over the sale's effects on its employees, and that the NLGA did not forbid issuance of an injunction under such circumstances. However, the Court of Appeals summarily reversed, holding that the ICA did not require accommodation of the NLGA's restrictions on the District Court's powers, and remanding for a determination whether the sale or strike violated the RLA. The District Court then held that although P & LE did not have a duty to bargain over its decision to sell, the RLA required it to bargain over the sale's effects on its employees, and that § 156's status quo provision required that P & LE's RLA bargaining obligations be satisfied before the sale could be consummated despite the ICC's approval of the transaction. The court therefore granted RLEA's request for an injunction against the sale, and the Court of Appeals affirmed. This Court then granted P & LE's petitions for certiorari challenging, in No. 87-1888, the Court of Appeals' affirmance of the injunction against the sale and seeking, in No. 87-1589, reversal of the Court of Appeals' judgment setting aside the strike injunction.

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* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499 (1906).

Held:

1. The RLA did not require or authorize an injunction against the sale of P & LE's assets to Railco. Pp. 2592-2598.

(a) The RLA did not require P & LE itself to give notice of its decision to sell and thereafter to bargain about the effects of the sale. Section 156 requires those actions only when the carrier is proposing a "change in *agreements*." In holding that the loss of jobs resulting from the proposed sale clearly would require such a "change," the Court of Appeals did not point out how the sale would alter any specific provision of any agreement; did not suggest that any such agreement dealt with the possibility of a sale, sought to confer any rights on employees in the event of a sale, or guaranteed that jobs would be available indefinitely; and did not explain how P & LE's decision to remove itself from the railroad business and terminate its position as a railroad employer would violate or require changing any agreement. Nor did the court purport to find an implied agreement that P & LE would not go out of business, would not sell its assets, or would protect its employees from the adverse consequences of a sale. Pp. 2592–2593.

(b) Although the unions' § 156 notices may have proposed far-reaching changes in the existing agreements, the giving of those notices did not obligate P & LE to maintain the status quo and to postpone its sale to Railco beyond the time the sale was approved by the ICC and was scheduled to be consummated. *Detroit & Toledo Shore Line Railroad Co. v. Transportation Union*, 396 U.S. 142, 90 S.Ct. 294, 24 L.Ed.2d 325 (1969)—which held that, when a rail union files a § 156 notice, the status quo provision forbids the railroad to make any change in pre-existing "objective working conditions" even if those conditions are not contained in express or implied agreements—does not control here, primarily because that case did not involve a carrier's decision to quit the railroad business, sell its assets, and cease to be a railroad employer. *Textile Workers v. Darlington Mfg. Co.*, 380 U.S. 263, 85 S.Ct. 994, 13 L.Ed.2d 827 (1965), established that the decision to close down a business entirely is so much a management prerogative that only an unmistakable expression of congressional intent will require a ruling to the contrary. The RLA contains no expression of intent to render an employer's decision to go out of business and consequently to reduce to zero the number of available jobs a change in the conditions of employment forbidden by § 156's status quo provision. Where, as here, the collective-bargaining agreement is silent concerning the sale of a railroad's assets and the railroad has proceeded in accordance with the ICA to obtain the ICC's approval of the sale, a union cannot delay the immediate consummation of the sale by filing a § 156 notice. This construction of the RLA satisfies the Court's obligation to avoid conflicts between overlapping statutory regimes, since it maintains the ICC's plenary authority over rail acquisitions by noncarriers. In contrast, enjoining the sale's consummation based on the unions' § 156 notices would likely result in the sale's cancellation and the frustration of Congress' intent through ICA amendments to deregulate the rail industry and to assist small rail lines with financial problems. Pp. 2593–2597.

(c) However, P & LE did have a limited duty to bargain in response to the unions' § 156 notices. Its decision to sell, as such, was not a bargainable subject. Nevertheless, to the extent that it could satisfy the unions' proposals for changes, it was required to bargain about the effects that the sale would or might have upon its employees. That obligation ceased on the date for closing the sale after the *Ex Parte 392* exemption became effective. Pp. 2597–2598.

2. The record is insufficient to allow this Court to determine whether the Court of Appeals correctly set aside the injunction against the strike. Although the NLGA's general limitation on district courts' power to issue injunctions in labor disputes must give way when necessary to enforce a duty specifically imposed by another statute, the Court of Appeals correctly ruled that the ICA creates no such duty. While § 10901 does authorize the ICC to impose labor protective provisions and gives unions the right to seek such protection and the right to judicial review if dissatisfied, no applicable ICA provision requires unions to participate in ICC proceedings or to seek protection rather than striking. Furthermore, labor protection provisions run against the acquiring railroad rather than the seller, and nothing in the ICA relieved P & LE of its duty to bargain with the unions until its transaction was completed or empowered the ICC to intrude into the relationship between P & LE and the unions. However, the NLGA's limitation on injunctions must also be accommodated to the specific provisions of the RLA, such that district courts have jurisdiction and power to issue injunctive orders against strikes violative of those provisions. Since neither of the lower courts ever ruled on whether the RLA creates a duty not to strike while its dispute resolu-

tion mechanisms are underway, the matter must be resolved on remand. Pp. 2597–2599.

No. 87-1589, 831 F.2d 1231, vacated and remanded; No. 87-1888, 845 F.2d 420, reversed.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and O'CONNOR, SCALIA, and KENNEDY, JJ., joined, and in Parts I and III of which BRENNAN, MARSHALL, BLACKMUN, and STEVENS, JJ., joined. STEVENS, J., filed an opinion concurring in part and dissenting in part, in which BRENNAN, MARSHALL, and BLACKMUN, JJ., joined.

Richard L. Wyatt, Jr., Atlanta, Ga., for petitioner.

Jeffrey P. Minear, Washington, D.C., for the United States as amicus curiae, by special leave of Court.

John O'B. Clarke, Jr., Washington, D.C., for respondents.

Justice WHITE delivered the opinion of the Court.

These cases involve the interaction of three federal statutes with respect to the proposed sale of the rail line of the Pittsburgh and Lake Erie Railroad (P & LE). The statutes are the Railway Labor Act (RLA), 44 Stat. 577, amended, 45 U.S.C. § 151 *et seq.;* the Interstate Commerce Act (ICA), 49 U.S.C. § 10101 *et seq.* (1982 ed. and Supp. V); and the Norris–LaGuardia Act (NLGA), 47 Stat. 70, 29 U.S.C. § 101 *et seq.*

I

Petitioner, P & LE, is a small rail carrier owning and operating 182 miles of rail line serving points in Ohio and western Pennsylvania and possessing trackage rights over other lines extending into New York. P & LE has experienced financial problems of increasing severity, having lost $60 million during the five years preceding the onset of this case. After other efforts to improve its condition failed, notably work force reductions, concessions from its employees, and market expansion, P & LE decided that in order to recoup for its owners any part of their investments it must sell its assets.[1] On July 8, 1987, P & LE agreed to sell its assets for approximately $70 million to a newly formed subsidiary, P & LE Rail Co., Inc. (Railco), of Chicago West Pullman Transportation Corporation (CWP).[2] Railco intended to operate the railroad as P & LE had except that Railco would not assume P & LE's collective-bargaining contracts with its various unions and would need only about 250 employees rather than the 750 then working for P & LE.[3] When the unions representing P & LE's employees were notified of the proposed sale, they asserted that the sale would have an effect on the working conditions of the carrier's employees and therefore was subject to the requirements of RLA, 45 U.S.C. § 152, Seventh and § 156, which provide:

> "§ 152 ... Seventh: Change in pay, rules, or working conditions contrary to agreement or to section 156 forbidden
>
> "No carrier, its officers, or agents shall change the rates of pay, rules, or working conditions of its employees, as a class, as embodied in agreements except in the manner prescribed in such agreements or in section 156 of this title."

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[1] Attempts to interest major rail lines in the property were unavailing because of the high cost of labor protection that would have been mandatory under the section of the ICA applicable to purchases by an existing carrier. 49 U.S.C. § 11347, *infra,* n. 7.

[2] P & LE would keep certain real estate and some 6,000 rail cars.

[3] CWP anticipated inviting all P & LE employees to submit applications and intended to give preference to them in hiring. CWP also expected to bargain for new contracts with the existing unions.

district court." 831 F.2d, at 1237. On remand, the District Court held that the RLA was indeed applicable to the dispute and on that basis issued an injunction against P & LE. It did not, however, ever address the question whether the unions' strike, which occurred after their suit was filed, was enjoinable under the RLA. Neither did the Court of Appeals deal with that issue in affirming the District Court. P & LE perfunctorily asserts in its briefs in this Court that the strike injunction was proper because the unions were obligated to bargain rather than strike after their § 156 notices were served. RLEA did not respond to this assertion. With the case in this position, we shall not pursue the issue. Instead, we vacate the judgment of the Court of Appeals, and leave the matter, if it is a live issue, to be dealt with on remand.

IV

The judgment of the Court of Appeals in No. 87-1888 is reversed and the judgment in No. 87-1589 is vacated and the case remanded for further proceedings consistent with this opinion.

So ordered.

Justice STEVENS, with whom Justice BRENNAN, Justice MARSHALL, and Justice BLACKMUN join, concurring in part and dissenting in part.

Regulated utilities do not have the same freedom to respond to market pressures that unregulated firms have.[1] They may not raise rates or cut services, for example, without permission from a regulatory agency. Most significantly for this case, they may neither enter nor leave the market without agency approval. Ignoring this principle, the Court in Part II of its opinion arrives at a result that, while perhaps preferable as a matter of policy, contradicts our previous interpretations of the relevant statute.[2]

The railroad industry long has been the subject of governmental regulation.[3] A year after this Court held that individual States were powerless to regulate rail lines extending beyond their boundaries, *Wabash, S.L. & P.R. Co. v. Illinois,* 118 U.S. 557, 7 S.Ct. 4, 30 L.Ed. 244 (1886), Congress established the Interstate Commerce Commission (ICC) to regulate economic aspects of the rail industry. Interstate Commerce Act, 49 U.S.C. § 10101 *et seq.* (1982 ed. and Supp. V). Regulation of employment relationships within the rail industry followed,[4] and in 1926, Congress enacted the Railway Labor Act (RLA), 45 U.S.C. § 151 *et seq.*

The intervening six decades were marked by relatively peaceful coexistence between the two statutes. During the course of the employment relationship, the RLA provided the means for resolving disputes. See *ante,* at 2589, n. 4; *Consolidated Rail Corp. v. Railway Labor Executives' Assn.,* — U.S. —, — - —, 109 S.Ct. 2477, — - —, — L.Ed.2d — (1989). If a railroad sought to end that relationship by sale, consolidation, or abandonment, the ICC routinely conditioned approval on the railroad's acceptance of either job protection or some form of severance pay for employees who would be affected by the change. See *United States v. Lowden,* 308 U.S. 225, 60 S.Ct. 248, 84 L.Ed. 208

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[1] *E.g.,* D. Hjelmfelt, Antitrust and Regulated Industries § 1.3 (1985).

[2] Because I agree with the Court's factual description of these cases and its resolution of No. 87-1589, I join Parts I and III of its opinion.

[3] See W. Jones, Cases and Materials on Regulated Industries 7-11, 24-55 (2d ed. 1976); M. Glaeser, Public Utilities in American Capitalism 57-71 (1957); I. Sharfman, The Interstate Commerce Commission, pt. 1, pp. 11-35 (1931).

[4] See, *e.g.,* Hours of Service Act of 1907, as amended, 45 U.S.C. §§ 61-66; Federal Employers' Liability Act of 1908, as amended, 45 U.S.C. §§ 51-60. See also Sharfman 180-182; L. Lecht, Experience under Railway Labor Legislation 14-46 (1955).

(1939).[5] Cf. *ante*, at 2590.

This symbiosis ended in 1985, when the ICC announced that it no longer would impose labor-protective conditions on sales of short-line railroads unless exceptional circumstances were shown. *Ex Parte No. 392, Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810, 815 (1985), review den. *sub nom. Illinois Commerce Comm'n v. ICC*, 260 U.S.App.D.C. 38, 817 F.2d 145 (1987); see *ante*, at 2590–2591. Suddenly it became important for railroad unions to obtain such labor protections through collective bargaining. Unlike other employment contracts, however, rail labor agreements are altered not by periodic renegotiation but by notification, pursuant to § 6 of the RLA, 45 U.S.C. § 156, of a desire to change terms in the agreements. See Tr. of Oral Arg. 66–67. Thus it is not surprising that the unions in this case did not seek labor-protective provisions until—just 18 months after the ICC abdicated its traditional protective role—plans to sell the railroad surfaced.[6]

There is no disagreement that labor-protective provisions related to the effects of an abandonment or sale may be the subject of collective bargaining. It follows, I believe, that when railway labor unions request the inclusion of such provisions in their collective-bargaining agreements by proper statutory notice, see *ante*, at 2589, and n. 5, the employer must maintain the status quo during the statutorily mandated negotiating process or risk a strike as a consequence of its breach of that duty. See § 2, First, Seventh of the RLA, 45 U.S.C. § 152, First, Seventh. The Court admits the force of this proposition and acknowledges that an employer has some duty to bargain when a sale is announced. *Ante*, at 2598, 2597. Nevertheless, it indicates that this particular dispute did not obligate the railroad to preserve the status quo, for the Court would prohibit any bargaining that "in effect challenged the decision to sell," and would allow negotiations to cease as soon as the sale is closed. *Ante*, at 2697.[7] This diminution of the employer's duty contravenes two of our decisions interpreting the Railway Labor Act.

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[5] Labor-protective provisions approved in *Lowden* included salary-level maintenance, preservation of seniority rights, and severance and relocation payments. 308 U.S., at 228, 60 S.Ct., at 250. In concluding that the ICC had the power to impose such conditions, Justice Stone wrote for the Court:

> "One must disregard the entire history of railroad labor relations in the United States to be able to say that the just and reasonable treatment of railroad employees in mitigation of the hardship imposed on them in carrying out the national policy of railway consolidation, has no bearing on the successful prosecution of that policy and no relationship to the maintenance of an adequate and efficient transportation system." *Id.*, at 234, 60 S.Ct., at 253. See also *ICC v. Railway Labor Executives' Assn.*, 315 U.S. 373, 62 S.Ct. 717, 86 L.Ed. 904 (1942).

[6] The railroad might have had a greater duty to bargain, the Court suggests, had the unions served notice before sale negotiations had commenced. See *ante*, at 2597, n. 19. Yet in the two opinions that I believe should control this case, we did not fault the unions for filing § 6 notices in reaction to—rather than in anticipation of—the railroads' initiatives. Compare *Railroad Telegraphers v. Chicago & N.W.R. Co.*, 362 U.S. 330, 332, 80 S.Ct. 761, 762, 4 L.Ed.2d 774 (1960), with *id.*, at 349, 80 S.Ct., at 771 (Whittaker, J., dissenting) (majority rejects railroad's argument that § 6 notices were improper because filed after railroad petitioned state regulatory commissions for permission to abolish jobs). See also *Detroit & Toledo Shore Line R. Co. v. Transportation Union*, 396 U.S. 142, 146, 90 S.Ct. 294, 297, 24 L.Ed.2d 325 (1969). In light of the ICC's abrupt halt to its practice of requiring labor protections, moreover, the Court's distinction unfairly penalizes the unions in this case.

[7] The Court neglects to mention that a sale may be closed within a matter of months, whereas resort to RLA procedures may entail "virtually endless 'negotiation, mediation, voluntary arbitration, and conciliation.'" *Burlington Northern R. Co. v. Maintenance Employes*, 481 U.S. 429, 444, 107 S.Ct. 1841, 1850, 95 L.Ed.2d 381 (1987) (quoting *Shore Line*, 396 U.S., at 148–149, 90 S.Ct., at 298). If the railroad knows its obligations will end when the sale is consummated, it will have no incentive to expedite bargaining. Thus the Court's imposition of a minimal bargaining duty affords employees scarcely more protection than they would have absent any duty.

In *Railroad Telegraphers v. Chicago & N.W.R. Co.*, 362 U.S. 330, 80 S.Ct. 761, 4 L.Ed.2d 774 (1960), a railroad had decided, with the approval of state regulatory commissions, to abandon a large number of its local stations and thus remove several hundred station attendants from the payroll. This Court held that because the RLA "command[s] that employees as well as railroads exert every reasonable effort to settle all disputes 'concerning rates of pay, rules, and working conditions,'" the union had a right to strike to prevent the railroad from implementing the partial abandonment without bargaining over effects. *Id.*, at 339, 80 S.Ct., at 766 (quoting § 2, First of the RLA, 45 U.S.C. § 152, First). The Court continued:

> "It would stretch credulity too far to say that the Railway Labor Act, designed to protect railroad workers, was somehow violated by the union acting precisely in accordance with that Act's purpose to obtain stability and permanence in employment for workers. There is no express provision of law, and certainly we can infer none from the Interstate Commerce Act, making it unlawful for unions to want to discuss with railroads actions that may vitally and adversely affect the security, seniority and stability of railroad jobs." *Id.*, at 339–340, 80 S.Ct., at 766.

Telegraphers thus holds that if management decides to abandon a significant part of a railroad's business, the impact of that decision on employees' job security is a proper subject for bargaining under the RLA.

Detroit & Toledo Shore Line R. Co. v. Transportation Union, 396 U.S. 142, 90 S.Ct. 294, 24 L.Ed.2d 325 (1969) (*Shore Line*), concerned a railroad's proposal to make new work assignments, a change neither authorized nor prohibited by the collective-bargaining agreement. The Court held that once the union had served notice of its desire to bargain, the railroad was obligated to maintain the status quo until completion of the RLA's "'purposely long and drawn out'" bargaining process. *Id.*, at 149, 90 S.Ct., at 299 (quoting *Railway Clerks v. Florida E.C.R. Co.*, 384 U.S. 238, 246, 86 S.Ct. 1420, 1424, 16 L.Ed.2d 501 (1966)). It further rejected the railroad's argument that the "status quo" encompassed only working conditions expressed in an agreement between the parties:

> "[T]he language of § 6 simply does not say what the railroad would have it say. Instead, the section speaks plainly of 'rates of pay, rules, or working conditions' without any limitation to those obligations already embodied in collective agreements. More important, we are persuaded that the railroad's interpretation of this section is sharply at variance with the overall design and purpose of the Railway Labor Act." 396 U.S., at 148, 90 S.Ct., at 298.

The Court therefore construed "status quo" to mean "those actual, objective working conditions and practices, broadly conceived, which were in effect prior to the time the pending dispute arose and which are involved in or related to that dispute." *Id.*, at 153, 90 S.Ct., at 301.

Today the Court proffers three reasons why *Shore Line* does not control this case. First, it asserts that the *Shore Line* holding that "status quo" includes "conditions 'objectively' in existence when the union's notice was served" stretched the language of the statute "to its outer limits," *ante*, at 2594. I am not at all sure that is true; even if it is, the holding is unambiguous and has the force of law. Second, the Court suggests that the fact that the work assignment changed in *Shore Line* had been in effect for many years justified an expectation "that it would not be changed without bargaining and compliance with the status quo provisions of the RLA." *Ante*, at 2594. This effectively restates Justice Harlan's argument in dissent that while not limited to the terms of *written* agreements, the status quo obligation is limited to a change in settled practice. See *Shore Line*, 396 U.S., at 159–160, 90 S.Ct., at 304–305. The Court's emphasis on those dissenting remarks avails it nothing, because the instant controversy also arose out of a change in established procedure. By either a subjective or objective measure, therefore, it is reasonable to conclude that these employees' jobs are among the "working conditions" that must be preserved throughout the bargaining process.

Third, and most importantly, the Court points out that in contrast with this case, the railroad in *Shore Line* had not proposed "to quit the railroad business, sell its assets, and cease to be a railroad employer at all," *ante*, at 2594. The simple reply is that, in spite of claims of " 'managerial prerogative' " much like those advanced here,[8] the Court in *Telegraphers* held that the effects of a railroad's decision to terminate a part of its business constituted a proper subject of bargaining. There is no relevant difference between the partial abandonment in *Telegraphers* and the transfer of ownership proposed in this case: in both, rail service would continue as before, but many employees would lose their jobs.

Management's motive in *Telegraphers*, to cut costs by eliminating a large number of dispensable jobs, was of course perfectly reasonable. Thus when the Court held that the RLA required to bargain over the effects of the change, Justice Clark wrote:

> "Today the Court tells the railroad that it must bargain with the union or suffer a strike. The latter would be the death knell of the railroad. Hence, for all practical purposes, the Court is telling the railroad that it must secure the union's approval before severing the hundreds of surplus employees now carried on its payroll. Everyone knows what the answer of the union will be. It is like the suitor who, when seeking the hand of a young lady, was told by her to 'go to father.' But, as the parody goes, 'She knew that he knew that her father was dead; she knew that he knew what a life he had led; and she knew that he knew what she meant when she said "go to father." ' " 362 U.S., at 343–344, 80 S.Ct., at 768 (dissenting opinion).

Had the sale in this case proceeded, the railroad would have operated the same service with a work force of 250 as compared to 750 employees. *Ante*, at 2588. The economic benefits of that reduction are as obvious as those that would have been achieved by closing obsolete stations on the railroad system in *Telegraphers*. It is just as obvious, I believe, that the RLA again commands bargaining. As Judge Becker noted in his opinion for the Court of Appeals:

> "We are fully aware of the unfortunate ramifications and irony of our decision. A bargaining order, and a status quo injunction, designed to foster conciliation, promote labor peace, and ultimately keep the rails running, may ultimately have the perverse effect of destroying the only chance P & LE has for survival and perhaps even the very jobs that the unions are now trying to protect. Although we are not happy with this result, we feel constrained to reach it, because the Supreme Court has appropriately admonished the judiciary not to apply its own brand of 'common sense' in the face of a contrary statutory mandate." 845 F.2d 420, 446 (CA3 1988) (citing *TVA v. Hill*, 437 U.S. 153, 193–195, 98 S.Ct. 2279, 2301–02, 57 L.Ed.2d 117 (1978)).

To evade the natural result of adherence to *Shore Line* and *Telegraphers*, the Court relies on two later opinions declaring that "an employer has the absolute right to terminate his entire business for any reason he pleases," *Textile Workers v. Darlington Manufacturing Co.*, 380 U.S. 263, 268, 85 S.Ct. 994, 998, 13 L.Ed.2d 827 (1965), and that the consequences of a partial closure are not a mandatory subject of bargaining, *First National Maintenance Corp. v. NLRB,* 452 U.S. 666, 101 S.Ct. 2573, 69 L.Ed.2d 318 (1981). See *ante,* at 2594-2596, and n. 17. But those opinions interpreted the strictures that the National Labor Relations Act places on an unregulated industry. As we noted in *First National Maintenance Corp.*, that is a situation far different from the Railway Labor Act's governance of a regulated industry.[9]

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[8] Compare *Telegraphers*, 362 U.S., at 336, 80 S.Ct., at 765 ("We cannot agree with the Court of Appeals that the union's effort to negotiate about the job security of its members 'represents an attempt to usurp legitimate managerial prerogative in the exercise of business judgment with respect to the most economical and efficient conduct of its operations' ") with Brief for Petitioners 23 ("A decision to go out of business is the quintessential managerial prerogative").

At issue today is the Railway Labor Act's regulation of a railroad's freedom to leave the market. Perhaps the RLA's restrictions on that freedom, as interpreted in *Telegraphers* and *Shore Line,* do not best serve national transportation interests. But since Congress has not overruled those interpretations, it is, as Judge Becker observed, inappropriate for judges to undertake to fill the perceived policy void.

For these reasons, I would affirm the judgment of the Court of Appeals in No. 87-1888.

THE FLORIDA STAR, Appellant

v.

B.J.F.

No. 87-329.

Argued March 21, 1989.

Decided June 21, 1989.

Rape victim brought suit against newspaper for publishing her name which it had obtained from a publicly released police report. The Circuit Court, Duval County, John S. Cox, J., awarded compensatory and punitive damages, and newspaper appealed. The District Court of Appeal of Florida, First District, 499 So.2d 883, affirmed, and newspaper appealed. The Supreme Court, Justice Marshall, held that imposing damages on newspaper violated First Amendment.

Reversed.

Justice Scalia filed opinion concurring in part and concurring in the judgment.

Justice White filed dissenting opinion in which Chief Justice Rehnquist and Justice O'Connor joined.

1. Constitutional Law 🔑90.1(8)

Imposing damages on newspaper for publishing name of rape victim which had been obtained from publicly released police report, in violation of Florida statute and newspaper's own internal policy did not comport with First Amendment; information was obtained lawfully, identification of victim was accurate and imposing liability did not serve need to further a state interest of the highest order. West's F.S.A. §§ 119.07(3)(h), 794.03; U.S.C.A. Const. Amend. 1.

2. Constitutional Law 🔑90.1(8)

Where newspaper publishes truthful information which it has lawfully obtained, damages may be imposed on newspaper only when narrowly tailored to state interest of the highest order. West's F.S.A. § 794.03; U.S.C.A. Const.Amend. 1.

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[9] We stressed that the decision in *Telegraphers* "rested on the particular aims of the Railway Labor Act and national transportation policy. See 362 U.S., at 336-338, 80 S.Ct., at 764-66. The mandatory scope of bargaining under the Railway Labor Act ... [is] not coextensive with the National Labor Relations Act and the [National Labor Relations] Board's jurisdiction over unfair labor practices. See *Chicago & N.W.R. Co. v. Transportation Union,* 402 U.S. 570, 579, n. 11, 91 S.Ct. 1731, 1736, n. 11, 29 L.Ed.2d 187 (1971) ('parallels between the duty to bargain in good faith and the duty to exert every reasonable effort, like all parallels between the NLRA and the Railway Labor Act, should be drawn with the utmost care and with full awareness of the differences between the statutory schemes')." *First National Maintenance Corp. v. NLRB,* 452 U.S. 666, 686-687, n. 23, 101 S.Ct. 2573, 2585, n. 23, 69 L.Ed.2d 318 (1981).

FRA/ICC STUDY ON SHORTLINES

Mr. LEHMAN. The ICC and FRA recently completed a joint study on the shippers' satisfaction with shortline and regional railroads. What were your major conclusions? Were there any significant areas of the study where you and the ICC were in disagreement?

[The information follows:]

The joint FRA/ICC study of over 400 shippers found a clear pattern of shipper satisfaction with both service and rates offered by the shortline and regional railroads created after the enactment of the Staggers Act. More than 85 percent of the surveyed shippers clearly believed that their current rail service had improved or stayed consistent with prior levels; the same was true for rates. The degree of satisfaction with service and rates was not significantly affected by such factors as shipper's size, extent of reliance of the railroad, access to another railroad, or access to other modes of transportation.

Service-related comments indicated that the respondents were satisfied with the frequency of service the railroads currently offer. Some indicated that the railroad's operations were sufficiently flexible to service their needs on request, including nights and weekends. Overall, good communications appear to exist between these new railroads and their shippers, and in most cases, customers feel they are receiving responsive, personal attention.

In their rate-related comments, some shippers stated that rates had actually decreased, as a result of contracts, better routing of traffic, and absorption by the railroad of more of the switching charges, among other factors. In contrast, those respondents dissatisfied with rate changes claimed that the imposition of surcharges and/or high demurrage charges were factors in their higher rates.

Although the intent of the questionnaire was to survey current rail users, 56 of the sampled shippers no longer used their study railroad. Twenty-five of these shippers cited unacceptable rates and/or inadequate service as principal reasons for terminating service.

There were no areas of the study where FRA and the ICC disagreed.

FEDERAL EMPLOYERS LIABILITY ACT (FELA)

Mr. LEHMAN. The National Transportation Policy states that the Administration will work to repeal the Federal Employers Liability Act, FELA. What exactly is the Administration planning in this regard—will you propose legislation—and will Secretary Skinner personally take a role in the issue?

What level of priority are you giving the repeal of FELA?

Mr. CARMICHAEL. It was given a high level priority in the transportation plan. As I understand the process, the Secretary will be offering various legislative proposals. FELA hopefully will be one of them.

Mr. LEHMAN. In the most recent year for which data are available, how many workers received FELA awards and what was the average and median amount of these awards?

Mr. CARMICHAEL. I think the industry paid out $811 million in FELA claims and the average payout was $37,852.

Mr. LEHMAN. And that includes those that received zero?

Mr. CARMICHAEL. There were 21,425 claims that were paid. I do not know how many claims were made that were not paid. I do not have that information with me.

Mr. LEHMAN. We have that.

Mr. CARMICHAEL. Okay.

FELA VS. WORKMEN'S COMPENSATION

Mr. **Lehman**. Can you estimate the comparable number of workers and amounts which would have been made under the Workmen's Compensation Program instead of FELA?

Mr. **Carmichael**. Our staff hustled and tried to find that. It has got to come from the individual states and we are going to have to collect that data for you and submit it.

Mr. **Lehman**. At least a sampling.

Mr. **Carmichael**. Yes, sir. You need a sampling.

[Clerk's note.—The following answer was provided by Amtrak. FRA had no additional information on this subject.]

No one can say for sure what our costs would be under a state workers' compensation system. The GAO estimated that our costs would drop between 11 percent and 73 percent depending upon which state figures are used. A critical point is that much of that savings comes at the expense not of the worker, but of a small group of specialized FELA trial lawers. Amtrak would expect to save approximately seventeen million dollars annually, based on the mean estimates of the GAO report for several states.

Mr. **Lehman**. Some in the railroad industry, including the president of Amtrak, insist that FELA discourages rehabilitation of the injured worker. They argue that FELA attorneys encourage their clients to postpone rehabilitation until after an award is made in order to provide a higher sympathy factor during the court proceedings. Is there any evidence that you know of to support this kind of claim?

Mr. **Carmichael**. Mr. Claytor's claim?

Mr. **Lehman**. Yes.

Mr. **Carmichael**. I know Mr. Claytor pretty well and his figures are usually very accurate. He is an extremely meticulous executive.

Just a quick comment from my standpoint as a businessman, my automobile business. I have never understood why the railroad industry does not buy accident insurance policies for their employees.

Mr. **Lehman**. Buy what?

Mr. **Carmichael**. Accident insurance policies, you know, for your hand or your leg or your life or your arm. There seems to be a lot less expensive ways in the railroad industry to protect the life and limb of a railroad employee than the process that we are using now, either Workmen's Compensation or FELA or maybe some sort of accident insurance.

I have tried to get with the various labor presidents and the industry to discuss this area and see if there is not an alternative out there, a third way. The whole purpose of FELA is to protect the life and limb of a railroad employee. And there must be a simpler, less expensive way to do it.

Mr. **Lehman**. Do you think there is a way between Workmen's Compensation and FELA?

Mr. **Carmichael**. I hope so. You know, somewhere back in my mind, I used to buy accident insurance at a very low cost and you could designate the hand, the leg or the eye at various values. And I think the insurance industry still does that. And, so, accident insurance for employees ought to be a fairly simple thing for the insurance actuaries to figure out. I hope we can, just from my contribution to this argument about FELA, I hope we can look into accident insurance as some sort of alternative.

INTERMODAL FREIGHT

Mr. **LEHMAN**. What trends are you seeing in the volume of intermodal freight being carried?

[The information follows:]

The U.S. freight railroads set a record in 1989 for trailers and containers hauled in piggyback service. The number of trailers and containers carried totaled 5.9 million, a 2.9 percent increase over the 1988 record of 5.8 million. The increase, however, represented an 8.8 percent increase in containers moved, while trailers declined by 0.8 percent. About half of all intermodal moves now involve containers, according to a recent study by Trailer Train Company.

The principal growth in container traffic has been the increased use of double-stack container trains used to carry imports from the Far East through west coast ports to eastern points, moving domestic freight and imports on the backhaul. Currently, about 100 double-stack trains depart west coast ports weekly for inland points.

The Association of American Railroads estimates that in 1988 rail intermodal service had a 72 percent market share of its most competitive (dry-van truckload/rail intermodal) market, between metropolitan areas with populations of one million or more and over 700 miles apart. Railroads' share of dry-van truckload-rail intermodal traffic moving distances greater than 500 miles was 39%. Recent studies by the U.S. Department of Transportation and the Association of American Railroads have found that if increased truck size and weights were to be permitted, there could be substantial diversion of intermodal traffic to trucks, with major losses of railroad revenue, jeopardizing the railroads' ability to maintain the infrastructure required for high-quality intermodal service.

EAST COAST/WEST COAST RR MERGER

Mr. **LEHMAN**. Some in the rail industry have speculated on the potential for a transcontinental merger of an East Coast and West Coast railroad. How would such a merger affect the rail industry's competitiveness, and what is the possibility of such a merger in the near future?

[The information follows:]

There has long been speculation about the possibility of a transcontinental railroad, but I know of none which is being planned. As with any end-to-end merger, such a consolidation would make sense only if the railroads involved would be more economically efficient as a single company than they are as connecting carriers. If the merged company could cut costs and provide improved service for traffic that is now interlined, its competitive position would be enhanced. However, most freight traffic in the U.S. does not move coast-to-coast; major flows are between the coasts and inland population centers or mining and growing regions. One potential major problem for a transcontinental merger, as with large railroad, would be the difficulty management might have in operating such a large system effectively.

GAO FINDINGS ON HAZMAT SHIPPING

Mr. **LEHMAN**. Turning to hazardous materials (HAZMAT). In November of 1989, the GAO issued a report which was critical of much of FRA's hazardous materials inspection program. I think Mr. Durbin has already touched on this. What were the GAO's principal findings, which of those do you agree with, and what actions are you taking in response to that report?

Mr. **CARMICHAEL**. I am on the record as agreeing with the GAO's report. And going back to Congressman Durbin's question a while ago, when this report came out, if we were working in safety at a speed of 110 miles an hour, we are now working at a speed of 140 miles an hour. We are much more aggressive and responsive to our inspection job.

The GAO report was a good report. It has made us be very introspective and made us change our method of inspection; our strategy for inspection.

Mr. **LEHMAN**. One issue they noted was that you have not been using available information to target high-risk shippers and railroads for greater monitoring. RSPA is doing this in the pipeline safety area. Why can you not develop a similar system?

Mr. **CARMICHAEL**. I have had a prayer meeting with my safety statistics people.

Mr. **LEHMAN**. Mississippi prayer meeting?

Mr. **CARMICHAEL**. Yes, sir. A long, long prayer meeting. And Mr. Walsh and his statistical people are making some real good progress in making sure that our data is the prime data in this United States.

Mr. **LEHMAN**. Expand on this information for the record.

[The information follows:]

The FRA is developing a system to track high-risk shippers. The FRA establishes agency objectives and delineates how the agency expects to achieve them through the *National Inspection Plan* (NIP). The NIP is FRA's compliance and enforcement tool that depicts each region's apportionment of inspection resources to areas germane to their geographical responsibilities.

The NIP is used in conjunction with FRA's Quality Improvement Program (QIP), Regional Inspection Points (RIP), and Staffing Allocation Model. QIP is a computer based work measurement system which reveals if FRA's enforcement activities are homogeneous nationwide. Projections from the NIP are compared with QIP actual data to determine if the areas of greatest concern are adequately inspected. The Inspection Point Listing tells us where and how much activity is occurring within a single territory. This data is used for risk analysis when planning where to inspect. A Staffing Allocation Model is used to determine how many inspectors FRA needs nationwide and where they should be located by discipline. Staffing allocations of this type place resources at locations where they do the greatest good.

During 1989, FRA hazardous material personnel made 5,123 inspections at rail carrier installations; 2,990 inspections at shipping facilities; 2,758 other types of inspections (such as container manufacturers and freight forwarders), and 76,435 inspections of railcars transporting hazardous materials. In addition to these inspections, FRA personnel investigated 194 accidents and incidents involving hazardous materials.

Mr. **LEHMAN**. Please provide the GAO's recommendations to FRA, your formal response, and an implementation plan for those recommendations which you have accepted.

[The information follows:]

In its report "DOT Should Better Manage Its Hazardous Materials Inspection Program." GAO recommended that FRA:

Update the Enforcement Manual (Hazardous Materials) to provide consistent guidance, including agency wide goals and objectives, and clarify inspectors' authority to write violations at shipper facilities before rail cars are transferred to railroads for transportation.

Establish a new inspection approach that includes (1) identifying high-risk shippers and railroads, and targets them for inspection and (2) emphasizes concentrating on reviewing safety procedures and secondarily inspecting tank cars.

Initiate a study of the staffing needs for realistic program implementation, considering the changes in objectives and procedures developed as a result of the recommendations in this report.

Perform a comprehensive survey of states with railroad inspection programs to determine the degree of interest in allowing state inspectors to perform hazardous materials inspections. If so indicated by the results, DOT should request legislative changes that would authorize state participation in the federal hazardous materials inspection program.

Attached is a memorandum outlining FRA's planned actions in response to the GAO report. This memorandum was incorporated into DOT's formal response to GAO.

Implementation of these planned actions is under way. The revised hazardous materials enforcement manual is being reviewed within FRA, as are plans to create a hazardous materials division. Recruitment of inspectors to improve our oversight of railroads and hazardous materials shippers in the regions is ongoing. We anticipate meeting our authorized staff level of 361 by the end of FY 1990. Announcements have been posted for the Director of Training and Communications and Bridge Engineer positions. The Hazardous Material Training Specialist position will be announced shortly. Modifications to the Office of Safety's current staffing model will be made as data becomes available from the recently initiated Quality Improvement Program. The survey of states to determine their interest in performing hazardous materials inspections is in progress.

U.S. Department
of Transportation
**Federal Railroad
Administration**

Memorandum

Date: FEB 12 1990 Reply to Attn. of:

Subject: GAO Report on Railroad Safety: DOT Should Better Manage Its Hazardous Materials Inspection Program

From: Gilbert E. Carmichael
Administrator

To: Glenda Tate
Director, Office of Management Planning

This is to advise your Office of the actions planned or taken by the Federal Railroad Administration (FRA) regarding the subject GAO audit report recommendations. The following FRA measures address the report recommendations.

GAO Recommendations

- o Update the Enforcement Manual (Hazardous Materials) to provide consistent guidance, including agency wide goals and objectives, and clarify inspectors' authority to write violations at shipper facilities before rail cars are transferred to railroads for transportation.
- o Establish a new inspection approach that includes (1) identifying high-risk shippers and railroads, and targets them for inspection, and (2) emphasizes concentrating on reviewing safety procedures and secondarily inspecting tank cars.
- o Initiate a study of the staffing needs for realistic program implementation, considering the changes in objectives and procedures developed as a result of the recommendations in this report.
- o Perform a comprehensive survey of states with railroad inspection programs to determine the degree of interest in allowing state inspectors to perform hazardous materials inspections. If so indicated by the results, DOT should request legislative changes that would authorize state participation in the Federal hazardous materials inspection program.

FRA Planned Actions

- The revised enforcement manual will be in final form soon. The GAO areas of concern have been addressed and the audit recommendations have been incorporated into the manual, including a revised approach to conducting shipper/consignee and rail carrier inspections.
- We are modifying the Office of Safety's current staffing model to use inspection point (workload) and Quality Improvement Program (productivity) data to better project resource needs and allocate resources to locations of greatest risk.
- The Quality Improvement Program (QIP) will be used to monitor inspector activities to ensure that the inspections being performed are consistent with the enforcement manual and the National Inspection Plan. For instance, we will use QIP to make sure that high-risk shippers and railroads are being appropriately targeted and that a majority of our hazardous materials inspections emphasize the review of shipper safety procedures vis-a-vis the inspection of tank cars.
- We are dramatically increasing our on-board inspection strength. We have added 25 inspectors since the subject GAO audit. Our current on-board inspector and supervisory field staff level is 327. Personnel actions have been initiated to increase the number of professionals in the regions to 361, our FY 1990 authorized staff level. These additional inspectors will significantly improve our oversight of railroads and hazardous materials shippers.
- Within our current authorized level of 361 professional field positions, we are adding ten hazardous materials inspectors and eight Hazardous Materials Specialists. Accordingly, the hazardous materials inspectors will have a full time specialist in each region to provide technical guidance and better support their activities. In headquarters, we have created a position of Director of Training and Communications, and we will soon be filling the Hazardous Materials Training Specialist position. With a staff consisting of a field Training Specialist in each inspection discipline, the new Director of Training and Communications will ensure deliverance of comprehensive, quality training to each Federal and state inspector as well as to appropriate industry personnel. We are also hiring a bridge engineer to focus additional attention on this area and thus reduce the potential for a catastrophic bridge accident.

- Currently, field guidance concerning hazardous materials issues comes from the Operating Practices Division in Headquarters. To give hazardous materials problems better visibility within the organization and provide better direction to our hazardous materials field force, we are creating a Hazardous Materials Division.

- We are conducting a survey of all the states to determine which states are interested in performing hazardous materials inspections. States interested in joining FRA's State Participating Program under the hazardous materials discipline will be provided hazardous materials training at FRA expense.

The proposed changes will enhance our hazardous materials enforcement program while optimizing our available resources.

#

HAZMAT ACCIDENTS

Mr. **Lehman**. What percentage of hazardous materials accidents occur by rail, and what percentage occur by road? Is the number by rail increasing or decreasing relative to trucked material?

Mr. **Carmichael**. Mr. Chairman, I have been begging that the hazardous material (hazmat) belongs on the railroads. And these numbers, I think, will point it out right quick.

With hazmat materials, there were 6,190 incidents in 1988 and 7,481 in 1989. Highway modes accounted for 79.2 percent in 1988 and 79.9 percent in 1989. The railroads accounted for 16.5 percent and 15.8 percent respectively.

Our mode is where hazardous material ought to be and hazardous waste ought to be. And I will keep fighting for getting it back there. When people want to slow the train down because of hazardous materials, what they do many times is they take it off the railroad, make the railroad less competitive, and put it on the trucks, which is a much more dangerous environment to be in.

Mr. **Lehman**. How has all this increased effort been reflected in the number of accidents or incidents that endanger people?

Mr. **Carmichael**. Our inspection efforts?

Mr. **Lehman**. Right, the overall increase in inspectors.

Mr. **Carmichael**. We know the corridors in the United States where the bulk of the hazardous materials start and where they go to. And we strategically locate our hazardous materials inspectors in those corridors.

Let me make one quick point. Every inspector we have got is involved in hazardous materials safety, whether it be the track or the operating practices or the motive power and equipment inspector. So, the whole effort of the FRA is involved in dealing with hazmat shipment, all the inspectors are involved in that process; hazmat, specifically.

Mr. **Lehman**. But has that been really reflected in the number of accidents that you have reported?

Mr. **Carmichael**. Let me see if my staff can give me that.

Mr. **Lehman**. Has all this made accidents go down?

Mr. **Carmichael**. Joe?

Mr. **Walsh**. Yes, Mr. Chairman. The accidents are going down. We feel that the research that we did back in the late Seventies, and the regulations that we implemented in the early Eighties have caused the accidents not to be as severe as they were back in the early Seventies.

We have spent a lot of time, also, working on the training of local emergency response people. And we feel that when we look at no serious injuries from 1980 to the present time, that we are being very effective in the training and the work that we have done. Assuring that not only the hazardous material is properly loaded, but the track is safe to operate over, the equipment is safe to carry it, the signal systems are safe, and the employees who are manning those trains are well trained to know what they should be doing.

We do have incidents where you have evacuations. Those are very regrettable, but at least nobody is being hurt during the time that we are having the evacuation. And we are working, again, to see if we cannot be more effective in the training of the emergency response people to cut down the size or the length of time of the evacuation.

HAZMAT ACCIDENT TRENDS

Mr. LEHMAN. Please expand on your answer citing the trends in pertinent statistics for accidents, casualties, and fatalities.

[The information follows:]

The following chart shows the decline in hazardous materials related railroad accidents, fatalities, and injuries over the last 10 years:

	Accidents involving release of hazardous materials	Cars released	Fatalities (accidents and incidents)	Injuries (accidents and incidents)
Year:				
1980	119	173	2	121
1981	77	109	0	222
1982	59	137	0	36
1983	52	62	0	68
1984	54	100	0	76
1985	54	109	0	53
1986	51	79	0	59
1987	50	89	0	23
1988	44	74	0	36
1989	56	84	0	36

HAZMAT INSPECTORS NEEDED

Mr. LEHMAN. A bill proposed by Congressman Luken would authorize the hiring of 60 additional hazardous materials inspectors for FRA and 40 for RSPA. Is this 60/40 ratio consistent with the percentages cited above? Do you support these additional inspectors, given the increases made last year?

Mr. CARMICHAEL. Mr. Chairman, after we were told to reevaluate our HAZMAT inspectors, Mr. Walsh, my Associate Administrator for safety, came back with a recommendation that we needed 8 more inspectors.

I accepted the recommendation of 8 from Mr. Walsh, but I told him to go back because the difference between 8 and 60 is significant. And I really wanted him to prove that 8 was sufficient. I think that will bring us up to 42; 34 onboard and 8 new ones, which were approved in the FY 1990 appropriations, would bring us up to 42 hazardous materials inspectors. That is his recommendation at this point in time. I have not gotten a report back from him of why we do not need 60.

Mr. WALSH. I think though, Mr. Chairman, if you look at the Luken bill, it says 60 additional inspectors. After we had testified before Chairman Luken, I am hoping that there would not be 60 hazardous materials inspectors, but we would be able to use them in some of the other disciplines because I think that you have to assure a safe track and that the equipment is safe and the locomotives that are hauling them are safe.

My recommendation to Mr. Carmichael was after the GAO report came out and I asked for 8 specialists that I think are very, very vital to the program.

Mr. **Lehman**. I am still trying to get the answer. Do you think that more should be made for FRA and less for RSPA? Or more for RSPA and less for FRA.

Mr. **Carmichael**. Excuse me, sir. I cannot speak for RSPA.

Mr. **Walsh**. I do not think we can speak for RSPA. We do feel that if Chairman Luken's bill would pass and the user fee was included in there, then those inspectors, I look at it, would be a little bit different than on normal appropriation requests.

Mr. **Lehman**. Well, as you say, you cannot determine the level for RSPA, but you do know your own need.

Mr. **Walsh**. Yes, sir.

Mr. **Carmichael**. And right at this point, we say, Mr. Walsh and his staff said, we need 8 more inspectors in addition to the 34 that we have. We cannot justify the request for 60 at this point.

HAZMAT ROUTES

Mr. **Lehman**. Railroads have discretion in choosing routes for the transportation of hazardous materials. Railroads normally select the most direct route over the best quality track. As a result, hazardous materials are often routed through heavily populated areas. How does FRA ensure that railroads are routing hazardous materials over the safest routes?

[The information follows:]

Hazardous materials usually are transported in train consists containing other freight. The heavily-traveled freight routes are the same routes that carry the vast majority of hazardous materials traffic. These routes with higher traffic densities are on higher speed, better-maintained track. Routing hazardous materials to avoid populated areas would result in forcing the hazardous materials onto more circuitous routes over less well maintained track. The combination of being in transit longer and on poorer track would increase the risks of an accident. This would also make transportation of hazardous materials by rail less competitive with the highway mode. Railroads are the safest mode for transporting hazardous materials. Forcing hazardous materials onto the highways would not have a desirable safety impact. We would in effect be mandating a practice less safe than the current practice dictated by the marketplace.

HAZMAT TRAINS—SAFE SPEEDS

Mr. **Lehman**. What is the FRA's position on reducing the speed of trains transporting hazardous materials through congested or high risk areas?

[The information follows:]

The FRA's Track Safety Standards are written to assure that the railroads install and maintain track suitable for the operating speeds of all trains that will use the track. Under these standards, six classes of track have been established, and each has a maximum allowable operating speed for freight and passenger trains. It is a violation of Federal law for a train to exceed the authorized speed for a class of track. FRA inspectors regularly monitor the operating speeds of trains and are empowered to assess fines of up to $20,000 for a violation of an operating speed limit.

The safe operation of all trains, whether carrying passengers, hazmat, freight, or bulk commodities and whether operating in open country or through populated areas is the primary purpose of the Track Safety Standards. They have been developed from sound engineering principles, refined over the years, and now benefit from highly sophisticated inspection technology. They represent a well proven means of assuring safe track and the prevention of railroad accidents for each of the allowable operating speed ranges.

It would be impossible to consider special speed restrictions for trains carrying hazmat while operating through congested or high risk areas. This is primarily because hazmat cars are presenty in many trains. In fact, it would probably be rare to find a train that did not contain hazmat of some sort. To require such trains to operate at reduced speeds would mean delaying practically every train, causing a competitive disadvantage which the railroads could ill-afford.

It is relevant to note that railcars used to transport hazmat are specially designed and equipped with an extensive array of safety features to protect the car and its contents in the event of an accident. The added expense of these safety features has been justified by allowing such cars to be handled expeditiously in much the same manner as all other types of rail freight cars.

HAZMAT SHIPMENT ON CABOOSELESS TRAINS

Mr. LEHMAN. What is FRA doing to ensure the safety of rail transport of hazardous materials on cabooseless trains? Are you requiring that HAZMAT railcars not be placed at the end of cabooseless trains, in order to minimize the effect of rear-end collisions?

[The information follows:]

The FRA is presently preparing to conduct a risk assessment of the safest location(s) in a train consist for railcars containing hazmat. The present rule requires that no hazmat cars be placed with six cars of an occupied caboose. However, the rule does not address the situation of a train without a caboose.

The existing rule is intended to protect the occupants of a caboose from the dangers posed by a leaking or burning hazmat car. It would also offer some protection to the crew of a locomotive rear-ending such a train.

The FRA needs to collect additional data on accidents to determine which cars in trains suffer the most frequent and most severe damage. There are indications, for example, that cars in the middle of trains suffer the most derailments and rollovers. To place hazmat cars, in what would seem to be the most protected location, could in reality, result in a higher risk to public safety and the environment. Another concern arises from the risk attendant in the additional switching operations necessary during train make-up to position hazmat cars in preferred locations. Trade-offs between these and other types of risks will be necessary.

The FRA plans to issue an ANPRM in the immediate future for the collection of the needed data. Upon completion of its risk analysis, the FRA will prepare an appropriate rulemaking to address the problem of hazmat car placement.

TANK CAR SAFETY RULEMAKING

Mr. LEHMAN. Currently, virtually all of the chlorine in the United States is transported in tank cars of less than 18,500 gallon capacity. Has the FRA proposed any requirements for head shields and thermal protection for tank cars of that size? If so, what is the schedule for that rulemaking? If not, why not?

[The information follows:]

FRA and RSPA will publish an advanced notice of proposed rulemaking in Docket HM-175A in the near future. In that proceeding, the Department will examine many areas of increased tank car safety, including the addition of head shields and thermal protection for cars transporting chlorine. Of course, chlorine cars have some degree of head puncture and thermal protection now since they are jacketed and surrounded by four inches of insulation. Tank cars transporting chlorine have a superb safety record, a fact recently confirmed in a publication of the Association of American Railroads—Railway Progress Institute Tank Car Safety Test and Research Project summarizing the twenty-two years of tank car accident data collected by the project.

Mr. LEHMAN. Mr. Coughlin, would you like to ask some questions?

Mr. COUGHLIN. Thank you, Mr. Chairman.

RAILROAD SAFETY TRENDS

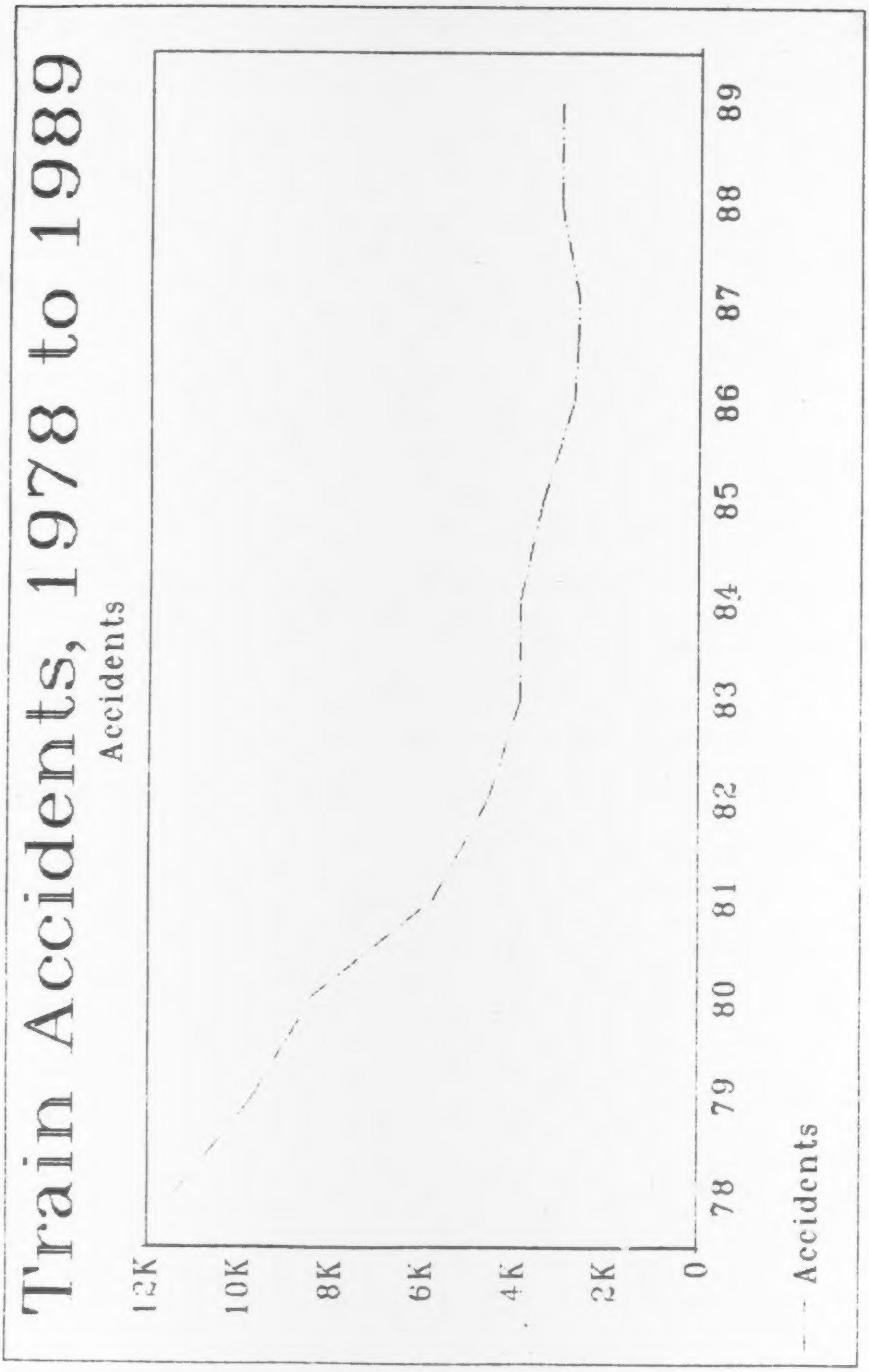
Let us now turn to rail safety issues other than hazardous materials transporation. Would you update us on the overall trends in rail safety last year, and tell us who the best and who the worst performers are?

Mr. **Carmichael**. Yes, sir. The best are lowest in accident rates: Denver and Rio Grande, Kansas City Southern, the Santa Fe, Amtrak, and the Louisiana and Arkansas Railway. Their accidents per million train miles went from .85 for the Denver and Rio Grande to 3.27 per million miles for the Louisiana and Arkansas Railway. Amtrak had 2.5 accidents per million miles. Amtrak, I understand, is in the running for one of the major awards of the big railroads this year.

The highest accident rate in 1989 was the Guilford-Springfield Terminal with 20.75 accidents per million train miles. The Soo Line, with 10.8. Grand Trunk was 7.4 and the Elgin-Joilet and Eastern was 7.23. The Chicago and Northwestern was 7.11. That is the report, sir.

Mr. **Coughlin**. Please update the train accident frequency map found on page 164 of last year's hearing record.

[The information follows:]



Train Accidents, 1978 to 1989

ACCIDENT TRENDS

Mr. **Coughlin**. Also, please update the narrative on accident trends found on page 162 of last year's hearing record.

[The information follows:]

ACCIDENT TRENDS

Year	Accidents	Accidents/ million train miles
1978	11,722	15.00
1982	4,589	8.00
1985	3,430	6.01
1986	2,761	4.87
1987	2,647	4.55
1988	3,051	5.01
1989 [1]	3,048	4.92

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[1] Preliminary.

RAILROAD SAFETY AUDITS

Mr. **Coughlin**. Last year, you told us you had no safety audits planned for high-accident railroads. Yet, it would seem that analyzing why some railroads have higher accident rates would be extremely helpful. You admitted that previous audits of the Guilford and Soo Lines were very helpful. Why do you not have a formal program to conduct such audits, and how many have you budgeted for fiscal year 1991?

Mr. **Carmichael**. I would like Mr. Walsh to comment on that if he would.

Mr. **Walsh**. Mr. Coughlin, last year we had planned to do more, although we did do the Iowa Interstate, Oklahoma-Kansas-Texas Railroad, Montana Rail Link, and CSX, Detroit Division and the Southern Pacific Peninsula Division.

We had some requests from some Members of Congress that we do some special work for them. We had some serious accidents and we had quite a bit of rulemaking going on and we did not do the normal three assessments that we have done in the past where we would do one commuter railroad, one Class I railroad, and some regionals or shortlines. We hope that this year we will get back into that routine.

Mr. **Coughlin**. How many do you have planned for 1991?

Mr. **Walsh**. We have three planned at the present time. In fact, we are in the process of doing one in Chicago today.

Mr. **Carmichael**. But we do watch the individual railroads. When we see an accident trend, we move.

CONRAIL'S SAFETY PERFORMANCE

Mr. **Coughlin**. The FRA issued a very critical report on Conrail's safety program in January of 1988. Last year you advised us that most of your recommendations would be in place within a year or so. Would you update us on that situation?

Mr. **Carmichael**. Let Mr. Walsh answer that, too, please?

Mr. **Walsh**. Yes, Mr. Coughlin, we have done the follow-up on Conrail. And we at the present are taking all the data from the follow-up and preparing a report. We should have that within three to six months.

Mr. COUGHLIN. Please expand on your answer for the record, and include a complete discussion of any outstanding deficiencies and a projected schedule for their resolution.

[The information follows:]

FRA conducted a formal follow-up assessment on Conrail in the fall of 1989. Emphasis was directed toward review of concerns identified during the 1987 system assessment. In general, we are encouraged at Conrail's affirmative performance in remedying discrepancies noted. Specifically, in response to FRA recommendations, Conrail has instituted several administrative changes to safety program structure and organization, including increasing dedicated safety staff by at least five managers. No longer subject to supervision by division management, Conrail safety officers are responsible only to the system director of safety. This removed safety officials from local management influence. In addition, at some locations Conrail has fashioned an aggressive craft employee involvement program where employee safety committees serve as an integral element in the safety effort. Their participation in meaningful safety dialogue with management is a valued resource in identification of problem areas. Perhaps, the most significant change is Conrail's inclusion of safety effectiveness as a measure of performance on periodic supervisory personnel evaluations. That means a supervisor's future advancement or salary adjustments depend in some measure on accomplishment of safety goals.

The real gauge of Conrail's recent progress is in their safety performance numbers. Preliminary figures for 1989 indicate:

Employee Casualties: Conrail experienced about an 11 per cent reduction in number of on-duty employee casualties over 1988 totals. That correlates to about 220 fewer employee injuries with an injury rate per 200,000 hours worked of about 6.35. That compares favorably with the national injury rate of about 6.77 for the year.

Rail Equipment Accidents: Conrail experienced over a 9 per cent reduction in reportable rail equipment accidents over 1988 totals. That correlates to about 16 fewer accidents with an accident rate per million train miles of about 3.18. That compares favorably with the national accident rate of about 4.29 for the year.

As these numbers indicate, Conrail has provided a constructive response to FRA recommendations; but there is still room for improvement. FRA notes an increase in number of lost or restricted work days encountered during 1989. In addition, the number of human factor caused accidents has not diminished over 1988 totals and the number of track caused accidents appears to have increased. FRA remains committed to work with Conrail to continue to improve operational safety and efficiency.

CONRAIL'S USE OF "DEADMAN" DEVICES

Mr. COUGHLIN. In a March 1989 report, the NTSB was highly critical of Conrail's continued use of "deadman" devices, which are used to stop a train automatically when the engineer takes his foot off the pedal. These devices are easily defeated by placing an object on the pedal, which is a practice the FRA 1987 Conrail safety assessment reported as being widespread and not uniformly discouraged. NTSB recommended that Conrail's program to phase out the use of these devices in favor of state-of-the-art "alerter" devices be expedited. Have they installed alerters in all of their cabs today? If no, when do they plan to do so?

Mr. WALSH. At the present time, we have been working with Conrail management and they do have a program of installing a design used on another railroad and they are in the process of retrofitting their locomotives.

Mr. CARMICHAEL. We are enforcing this under the sanctions on individuals, though and the individuals that operate with deadmen, if we catch any sort of disabling of them, get a quick fine.

Mr. COUGHLIN. Do you know when they plan to have them in all the locomotives?

Mr. **Walsh**. I would have to supply that for the record, Mr. Coughlin.

[The information follows:]

At the present time, Conrail has a total of 1,593 locomotives operating. Conrail plans to install Pulse alerters on 1,302 road freight locomotives. The remaining locomotives will retain the deadman pedal and they will be used primarily in yard service.

Conrail provided the following data regarding the installation of the Pulse alerters on its locomotives: 1988, 354 installed; 1989, 348 installed; 1990, 50 installed out a proposed 470 to complete the project. A total of 130 new locomotives were delivered since 1988 and these had the Pulse alerter applied by the manufacturer.

As the Pulse alerters were installed, the deadman pedals and apparatus were removed. The road locomotives that will have the alerters installed this year have active deadman pedals as a safety device.

CSX SAFETY AUDIT

Mr. **Coughlin**. Similarly, an assessment of the Baltimore Division of CSX Railroad in March of 1988 was negative. Last year, you told us that would like to see a greater reallocation of CSX's staff to address the problems. What is the situation today? Have they done all that you feel is necessary?

Mr. **Carmichael**. We did an additional audit on CSX in Michigan. And I sent our senior staff down to have a prayer meeting with them. CSX has made some very deliberate moves and improvements as a result of those audits.

Mr. **Coughlin**. Have they done all you feel is necessary?

Mr. **Carmichael**. I think they walk, talk, eat and sleep safety right at this point. It has been a very expensive process to them. And we have come down real hard, ourselves.

Mr. **Coughlin**. Please expand on your answer for the record citing pertinent statistics.

[The information follows:]

FRA continues to monitor CSX Transportation's rail performance. In addition to the 1988 Baltimore Division safety review, FRA conducted an assessment of operations on the Detroit Division, as well as the Jacksonville, Florida located centralized dispatching center.

In general, FRA believes CSX is moving in the right direction. Jerry Davis, former executive vice president-operations of Union Pacific Railroad, took over as president of CSX rail operations last summer. He made several key staff changes and has instituted an aggressive safety awareness program with ambitious goals. Last fall, FRA Associate Administrator J. W. Walsh and top staff met for a full day with Mr. Davis and his CSX officers. Mr. Walsh presented FRA's safety concerns regarding CSX operations, and asked Mr. Davis to formulate a corrective plan to address those issues. CSX responded and began implementation of revised safety programs, to include renewed management involvement at all levels of safety.

Employee Casualties: Each operating division manager has conducted "town hall" type meetings around the system, promoting safety program awareness. Mr. Davis has attended as many of these sessions as possible. A key to program success is the emphasis management puts on employee involvement. At most locations, employee safety committees are provided time, resources and authority to carry out safety initiatives. Safety effectiveness is also a performance criteria measured on supervisory evaluations. Attainment of safety goals is a factor in determining the level of salary increase or advancement for all supervisory personnel.

Preliminary results in this area are encouraging. For example: CSX experienced about a 10 percent reduction in on duty employee casualties in 1989 over 1988 totals. That correlates to about 295 fewer employee injuries with an injury rate per 200,000 hours worked of about 6.56. That compares favorably with the national injury rate of about 6.77 for the year.

Rail Equipment Accidents: Unfortunately, the same level of improvement in rail equipment accidents is not apparent. For example: CSX experienced about a 25 per cent increase in number of reportable equipment accidents in 1989 over 1988. That correlates to about 82 more accidents with an accident rate per million train miles of about 6.07. That compares unfavorably with the national accident rate of about 4.29 for the year.

FRA is concerned about this trend. In that regard, we have planned special operational reviews on CSX properties to supplement daily inspection activities. These special reviews include follow-up assessment of the Detroit Division set for later in the year, and follow-up assessment of the centralized train dispatching offices in Jacksonville. Set for April, this project will reveal a great deal about the root of CSX operational philosophy and practice. It will include FRA review of CSX operating rules, operational methodologies and communication procedures. FRA inspectors will be on CSX property, riding trains and talking to employees across the system as part of the analysis.

Despite the discouraging numbers for 1989, we believe there is room for optimism. Current CSX management recognizes their problems and pledges cooperation with FRA to remedy them. The full impact of Mr. Davis' new programs was limited in 1989 due to his brief tenure (less than five months) at CSX. We have every reason to believe 1990 will reveal much improved performance on the part of this carrier.

SAFETY PROBLEMS ON SHORTLINES

Mr. COUGHLIN. In our hearing this year, the National Transportation Safety Board indicated that safety problems in regional railroads and shortlines is a big issue. They believe that the crews are inadequately trained, the tracks are run down due to the large backlog of deferred maintenance, and that the recent growth in the number of these railroads has made these problems worse. How much higher are the accident rates on these railroads compared to Class I railroads? Is this a problem about which we should be concerned?

Mr. CARMICHAEL. This is a problem I am concerned about, because this is the area that I came out of when I came out to Washington, working with regional railroads. In the accidents per million train miles, the Class IIs and IIIs had 118 to 135 percent higher accident rates respectively, than the Class I railroads. It is a problem that we should be concerned about. That is the technical assistance that we were talking about awhile ago, and the training director that we want to bring on board for expanding and training our inspector staff. The birth of these new regional railroads and their entrepreneurship and their aggressiveness warns me, as an Administrator, that I had better watch them carefully; and I have told our inspection staff to be very diligent in that area.

Mr. COUGHLIN. What do you think is the cause of the higher accident rate?

Mr. CARMICHAEL. They are going out and getting the business, and they are trying to generate revenues to fix up their track, and go get the business all at the same time. They are introducing more and more traffic that has to be constantly watched and monitored and leads to a lot of investment. This is something that we must be careful in watching, and we are offering every service that we can in that area.

Mr. COUGHLIN. Last year, the FRA indicated that even though the accident rate was higher, since the average speed on these lines is slower, the accidents tend to be minor. Would you elaborate on that position? Are we sacrificing safety because some of these lines are in a precarious economic position, or because the accidents are not serious enough?

[The information follows:]

FRA does not believe safety is being sacrificed on shortline or regional railroads. As mentioned in testimony, while the accident rate for shortlines is not generally as good as the Class I carriers, the accidents sustained are usually much less severe due to the slow speeds involved in most operations. A review of the numbers supports this position as follows:

Preliminary statistics for the 1989 calendar year indicate:

Employee Casualties: Employee on-duty casualties for the year for 27 of the "group S" railroads improved about 3 percent over 1988. That correlates to about 15 fewer employee injuries. Numbers of days absent from work and days restricted from normal duties as a result of injuries also decreased.

Rail Equipment Accidents: Reportable rail equipment accidents for the year for the same 27 carriers improved about 5 percent over 1988. That correlates to about 9 fewer accidents.

FRA enforcement philosophy remains consistent for all railroads regardless of size. We do not apply the law any differently to shortlines than we do to regionals or Class I railroads. We understand the economic frailty of some shortlines, and try to work with them to facilitate compliance within the framework of their capabilities. But, the standards must remain the same for all carriers.

SAFETY AUDITS OF SHORTLINE RAILROADS

Mr. **Coughlin**. You indicated in testimony last year that you had plans to conduct four system-wide audits of shortline railroad safety practices during 1989. These audits had been deferred from 1988. How many did you conduct, and what did you find?

[The information follows:]

FRA continued to pursue an aggressive program of safety assessments during 1989. In all, five initial safety assessments were conducted, including:

Iowa Interstate Railroad.
Oklahoma, Kansas and Texas Railroad.
Montana Rail Link.
Southern Pacific Penisular Commute Operations (San Francisco).
CSX Transportation Detroit Division.

In general, FRA found many positive programs in place on most carriers. Most encouraging was a willingness on the part of management and craft employees to work with FRA to enhance operational safety. There were problems noted however, including:

Ineffectual operational testing where quotas are met with little regard for quality of test results.

Poorly administered training programs. Poor documentation of training conducted.

At least one carrier demonstrated a lack of full management commitment to safety above production.

Local adaptations to system operating rules were occasionally encountered. The tendency was to modify a rule for sake of local convenience.

Safety assessments permit FRA to provide in-depth analysis of carrier operations, staffing, philosophy and approach to safety. We remain committed to the process, and plan to conduct several assessments a year of shortline and regional carriers in addition to those scheduled for class I railroads.

HUMAN FACTORS ACCIDENTS

Mr. **Coughlin**. The percentage of rail accidents caused by human factors has been rising since 1986. In 1988, they were the leading cause of accidents. Can you update us on the human factors problem today, and what FRA is doing to reduce the number of such accidents?

Mr. **Carmichael**. Again, when we talk about HAZMAT inspectors, probably the most important inspector that we have in the field is the operating practices inspector because that person deals with the human factors.

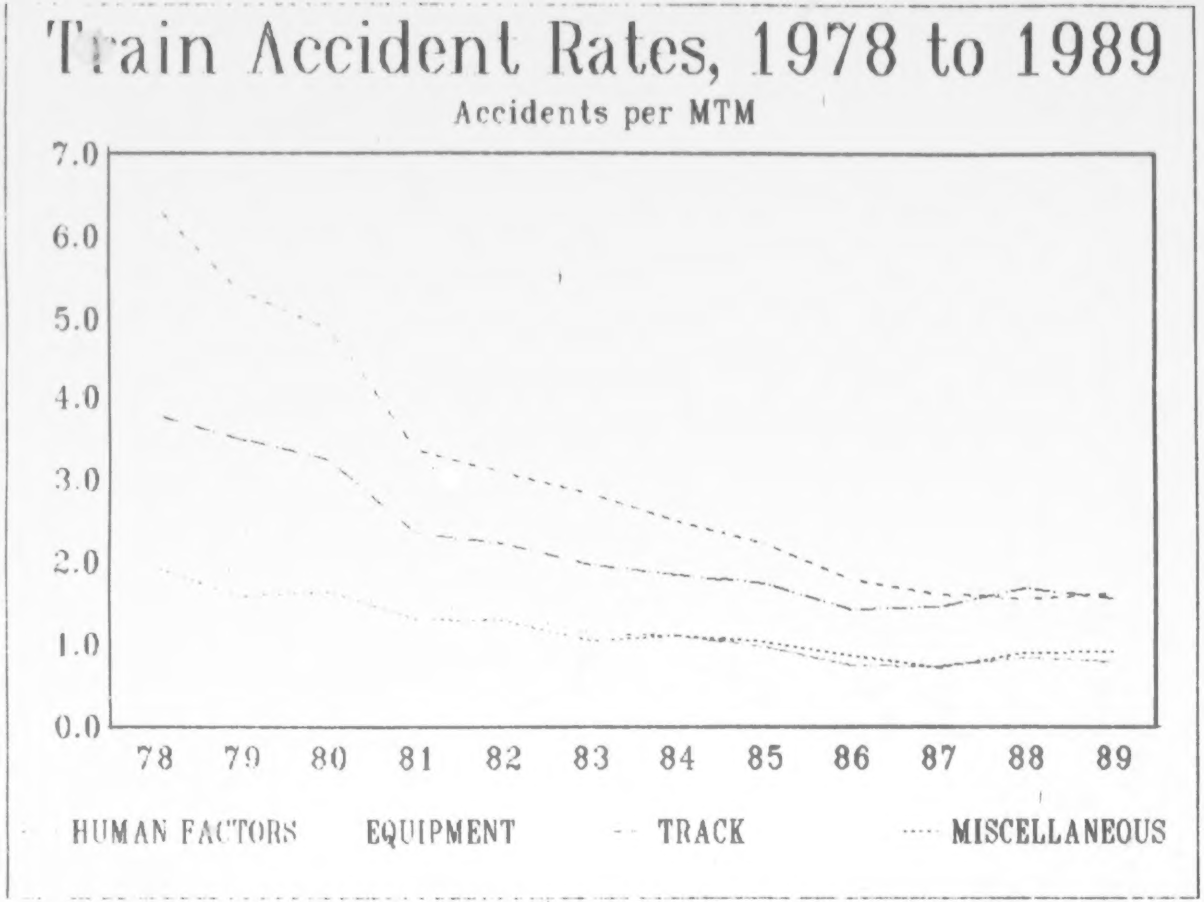
I had to go to Moscow on a technical exchange for the State Department. The Russians told me that their human factor percentage of accidents was 26 percent; ours is in the neighborhood of 32 to 34 percent. It is the area where we can probably get the biggest result by extremely careful training of our operating practice inspectors.

Again, as we change our strategy for inspecting the shippers in the HAZMAT area, we are emphasizing the training and the enforcement of our operating practices people. It is where we think that we can get the biggest reduction in accidents and fatalities, and the biggest increase in safety. That is part of our new strategy, investigation strategy. We have taken some of the responsibility off of the operating practices inspectors; they did do 10 percent in HAZMAT. With the expansion of our HAZMAT inspectors, we want our operating practices inspectors concentrating more on the human factors. And our research and development department is very deliberately working in that area.

TRAIN ACCIDENT RATES

Mr. COUGHLIN. Please update for the record the train accident rate and cause data shown on page 6 of last year's hearing record.

[The information follows:]


Train Accident Rates, 1978 to 1989
Accidents per MTM
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
78
79
80
81
82
83
84
85
86
87
88
89
HUMAN FACTORS
EQUIPMENT
TRACK
MISCELLANEOUS

HOURS OF SERVICE REGULATIONS

Mr. COUGHLIN. It has been noted for some time now that the railroad industry is characterized as having one of the most unpredictable work and rest cycles of any industry in the U.S. Several studies have documented the problem of chronic fatigue which can seriously impair alertness. Has FRA conducted any recent studies on the nature and extent of this problem, or are there any plans to do so?

Mr. CARMICHAEL. Yes, sir. We are working on that, but the frustration of FRA is that this comes under the Hours of Service Act, and we have no regulatory authority on the hours of service, so it is frustrating to do research on something that you cannot take any action on.

Mr. COUGHLIN. Can you provide any statistics on the number of rail accidents in which fatigue, sleep deprivation, or related problems have been a contributor to the accident?

[The information follows:]

We do not have statistics on the number of rail accidents in which fatigue, sleep deprivation, or related problems have been a contributor to the accident. In 1989, four accidents were reported to have been caused by "employee asleep," and over the last six years this has been the reported cause of a total of eight accidents. However, we do not know the determining factors which resulted in the employees falling asleep.

We are concerned, however, that the Hours of Service Act effectively blocks FRA from addressing issues which effect fatigue and sleep deprivation and are considering proposing legislation to give us this authority.

We are also designing a baseline test to determine how well engineer performance can be measured under control conditions of sleep deprivation, manipulation of circadian rhythm, and variance of work/sleep cycles.

Mr. COUGHLIN. Investigations of several rail accidents in recent years have suggested the need to make changes in FRA's hours of service regulations. Some of those recommendations would provide for mandatory lunch breaks and off-duty periods for train operators and dispatchers, and determine workload limits for train dispatchers. What is FRA doing to get the authority to bring about such changes in the Hours of Service Act?

Mr. CARMICHAEL. The answer that I have to give to that again is that we are seriously considering within FRA that hours of service is an area that we could do an awful lot of good work in, in the human factors area. And we have not, at this point, approached the Secretary on taking an initiative in that area, but it is something that we are discussing and we are interested in doing.

Mr. LEHMAN. Mr. Coughlin. Some of these definitions bother me a little bit, about human factors and other factors. Some accidents are a combination of both. How do you provide for that? You say that you have 32 percent caused by human factors, and the rest from other factors. Some of those 32 percent are a combination of mechanical failure and human factors. The definitions could affect your percentages.

Mr. CARMICHAEL. Yes, sir. That is how serious this process of analysis is.

Mr. WALSH. That is entirely true. We look at an accident investigation, and we try to look at all of the causes, and what percent is in there that causes them.

The human factor accidents usually are the most serious accidents, where you have a collision, two trains coming together or something like that. And many times, there are human factors in our accident investigation that we cannot prove the cause of. One recently in Pennsylvania, we are fairly sure that we can assume that the engineer dozed for a few seconds, and had a train collision, but yet, there is no proof, since he was a fatality. We are looking at the work that we have done recently in the human factor area, in just one discipline, which will give us direction for future research and also by bringing in some Ph.D.s to study the area, we will be more effective.

But we are concerned that we do not regulate the hours of service. The existing statute is an act that is on the book, and we are less than effective, and less than we would like to be effective in this area. It is one area that we have talked to the Administrator about and have suggested that there may be something that we would look to for some type of an amendment to the Hours of Service Act, once we have more knowledge about human factors.

Mr. LEHMAN. Please expand on your definition. If you have an accident that is predominantly from human failure, is that a human failure accident? Give us definitions and how they affect percentages, and what we should do about it. I do not know how you measure these things.

Mr. WALSH. Possibly, we could, for the record, submit some briefing material as to how we come to some of our assumptions.

[The information follows:]

The railroad must select, from the cause descriptions found in the FRA guide for preparing accident/incident reports the cause which best described the cause of the accident. If none of the available causes are appropriate, they must fully describe the circumstances leading up to the time the accident occurred.

If there were one or more contributing causes, the railroad reports the foremost contributing cause.

The FRA's definition of a train accident includes any collisions, derailments, fires, explosions, acts of God, and similar events that involve the operation of on-track equipment (standing or moving) that results in more than $5,700 of reportable damage.

The following accident causes are considered Human Factor accidents:

BRAKES, USE OF

Automatic brake, improper use

Dynamic brake, improper use

Failure to properly secure engine(s) (railroad employee)

Failure to properly secure hand brake on car(s) (railroad employee)

Failure to apply sufficient number of hand brakes on car(s) (railroad employees)

Failure to apply hand brakes on car(s) (railroad employee)

Failure to properly secure engine(s) or car(s) (non-railroad employee)

Independent (engine) brake, improper use

Failure to control speed of car using hand brake, (railroad employee)

Use of brakes, other (Describe)

EMPLOYEE PHYSICAL CONDITION

Impairment of efficiency and judgement because of drugs or alcohol

Incapacitation due to injury or illness

Employee restricted in work or motion

Employee asleep

Employee physical condition, other (Describe)

FLAGGING, FIXED, HAND AND RADIO SIGNALS

Absence of fixed signal (Blue Signal)

Fixed signal improperly displayed (Blue Signal)

Fixed signal improperly displayed

Block signal, failure to comply

Interlocking signal, failure to comply

Automatic cab signal, failure to comply

Automatic cab signal cut out

Automatic train-stop device cut out

Automatic train control device cut out

Failure to observe hand signals given during a wayside inspection of a moving train

Fixed signal, failure to comply

Flagging, improper or failure to flag

Flagging signal, failure to comply

Hand signal, failure to comply

Hand signal improper

Hand signal, failure to give/receive

Radio communication, failure to comply

Radio communication, improper

Radio communication, failure to give/receive

Flagging, fixed, hand and radio signals, other (Describe)

OTHER RULES AND INSTRUCTIONS

Car(s) shoved out and left out of clear

Cars left foul

Derail, failure to apply or remove

Failure to stop train in clear

Hazardous materials regulations, failure to comply

Instruction to train/yard crew improper

Motor car or on-track equipment rules, failure to comply

Movement of engine(s) or car(s) without authority, (railroad employee)

Shoving movement, absence of man on or at leading end of movement

Shoving movement, man on or at leading end of movement, failure to control

Skate, failure to remove or place

Special operating instruction, failure to comply (identify in item 50)

Train order or timetable authority, failure to comply

Train orders, radio, error in preparation, transmission or delivery

Train orders, written, error in preparation, transmission or delivery

Rules and instructions, other (Describe)

SPEED

Coupling speed excessive

Switch movement, excessive speed

Train inside yard limits, excessive speed

Train outside yard limits under clear block, excessive speed

Speed, other (Describe)

SWITCHES, USE OF

Spring Switch not cleared before reversing

Switch improperly lined

Switch not latched or locked

Switch previously run through

MISCELLANEOUS

Buffing or slack action excessive

Failure to couple

Lateral drawbar force on curve excessive

Moving cars while loading ramp or bridge plate not in proper position

Passed couplers

Retarder, improper manual operation

Retarder yard skate improperly applied

Other train operation/human factors (Describe)

Mr. **Carmichael**. We can do that, Mr. Chairman. Many times, through the process of eliminating any mechanical problem, no mechanical failures, you end up with the conclusion that it was caused by human factors.

Mr. **Lehman**. But you have both.

Mr. **Carmichael**. Yes, sir; you can have both.

Mr. **Lehman**. And one could still be predominant. You have the small mechanical failure compounded by human failure.

Mr. **Carmichael**. That is right.

Mr. **Walsh**. Many times, that is entirely true. You will have a small mechanical problem, and through train handling or some other process, it compounds the mechanical failure.

DEFINITION OF ACCIDENTS

Mr. **Lehman**. What is your definition of an accident? When does an accident become "human failure"? You can change your definition of an accident and decrease the number of accidents.

Mr. **Carmichael**. I hear your question, sir, and we will try to get you an intelligent written answer.

Mr. **Lehman**. You do not have near misses as in the aviation industry, do you?

Mr. **Carmichael**. I am afraid that we do have near misses.

Mr. **Walsh**. We do. We have not really recorded them the way the FAA does, but they do happen out there, and it is a very big concern in train dispatching. Since Mr. Carmichael has come on the scene, we are looking very closely at near misses.

Mr. **Lehman**. What I am trying to get at is that data is a lot of baloney unless you have criteria that is dependable.

Mr. **Carmichael**. That was my earlier point about our statistics department in the Office of Safety; it is going to have to be very accurate and very dependable, and very scientific.

Mr. **Walsh**. I think also that if we give you a definition of a train incident and a non-train incident, it may help you to understand what we are doing.

Mr. **Lehman**. All right. Mr. Coughlin, I apologize for the interruption, but those are the kinds of questions that bother me.

[The information follows:]

Train Accident: An event such as collision or a derailment that involves the operation of on-track equipment and results in reportable damage to track or equipment above an established threshold.

Train Incident: An event involving the movement of on-track equipment that results in a reportable casualty, but does not cause reportable damage above the threshold established for train accidents.

The current threshold is $5700.

HOURS OF SERVICE ACT WAIVERS

Mr. **Coughlin**. During 1989, did FRA issue waivers of the hours-of-service regulations to any regional railroad or shortline? If so, what was the justification for the waivers?

[The information follows:]

During 1989 FRA issued ten waivers of the Hours of Service Act (Act) and no waivers of the hours of service regulations (49 CFR Part 228) to shortlines and regional railroads. Consistent with FRA's limited authority under 45 U.S.C. § 64a(e), the waivers of the Act were granted only to railroads that employ 15 or fewer covered employees and permitted service of no more than 16 hours in any 24-hour period. In addition, all of these waivers stated that they did not apply to passenger service or to transportation of hazardous materials other than combustibles. Each waiver was justified on the basis of an investigation of each individual railroad to determine whether the waiver would be "in the public interest" and that it would "not adversely affect safety." 45 U.S.C. § 64a(e). In determining whether the waiver met the statutory criteria, FRA considered a host of factors, including the following: (i) the railroad's operations, including method of operation, route density, speeds, presence of foreign traffic, and other safety aspects; (ii) the railroad's history of compliance with the Act and the hours of service recordkeeping and reporting regulations (49 CFR Part 228, Subpart B); (iii) the railroad's history of compliance with the Railroad Operating Rules (Part 217), such as the adopting of rules and the training and testing of employees; and (iv) the railroad's accident history.

HUMAN FACTORS RESEARCH

Mr. COUGHLIN. Many other Federal agencies, including NSF and DOD, are doing significant research in human factors. How many staff resources are you dedicating to reviewing that research for your benefit in the rail area?

[The information follows:]

There is one FRA staff member in the Office of Research and Development whose primary responsibility is in the area of human factors research, including the review of related work done by others. As a result, qualified contractors are selected as needed to undertake human factors research for FRA.

TRESPASSER FATALITIES

Mr. COUGHLIN. The number of trespasser fatalities have been increasing. Can you provide us with the most recent data on trespasser fatalities, and tell us what are your initiatives to address this continuing problem?

Mr. CARMICHAEL. The number of trespasser fatalities in 1989 was 434, a 3 percent decrease from last year, when 448 railroad trespassers died. It has run this way: It has been 400 in 1983, 499 in 1984, down to 391, back up 434 in 1989. As I understand the trespasser, these are people who are not supposed to be on the property; are not supposed to be on the bridge. And as far as the initiatives to addressing this problem, I do not have a good answer for you at this point.

Mr. COUGHLIN. Provide one for the record, then.

Mr. CARMICHAEL. Yes, sir.

[The information follows:]

The number of trespasser fatalities in 1989 was 434, a 3 percent decrease from last year when 448 railroad trespassers died. Since 1983 trespasser fatalities have varied from a high of 499 in 1984 to a low of 391 in 1985, with an average of 436 trespasser fatalities over the past seven years.

To address the continuing problem of trespasser fatalities, FRA proposes the development, through a contractual effort, of prone areas. This would be accomplished by a detailed review of coroner reports, reviews of local and railroad police files, and interviews. Availability of such profiles and descriptions would assist railroads and public safety officials in targeting prevention efforts. FRA has also directed its safety inspectors who make Operation Lifesaver presentations on highway-rail railroad property. Additionally, FRA is considering sponsoring a program which has been or might be tried to reduce industry exposure and the national trespasser casualty toll.

OPERATION LIFESAVER

Mr. COUGHLIN. How would you rate the effectiveness of the Operation Lifesaver Program, and how much funding have you budgeted in fiscal year 1991 to continue your participation in that program?

Mr. CARMICHAEL. The amount of money budgeted is $100,000 for Operation Lifesaver. I am going back to my earlier report on the chart up here, where we saw it at the highway grade crossing up to 790 deaths. I wish I could say that it was the other way around, and that Operation Lifesaver has been a contributor. Without it, it may have been much worse.

I am personally pushing Operation Lifesaver; you see me wear this little pin all the time; that is the symbol of it. Well, public education is always part of the solution, and so, our staff and this Administrator, personally, is giving Operation Lifesaver maximum pressure, maximum push, maximum support. The industry is going to have to help a lot more, too.

And another thing is that the law enforcement officials in the communities around this country are going to have to recognize that it is a serious problem. One small community down in Florida had a high fatality accident rate at a grade crossing they had there. Graham Clayter told me about this. And when they put in a $100 fine for crossing that grade crossing, the fatalities disappeared. So, the local law enforcement has a lot to do with it. It is sad to say that a human being will risk his life, but will not risk $100, but it demonstrates that Operation Lifesaver can do some work.

And we are going to be addressing some law enforcement officials in the next few weeks, asking them to start doing more at the local level, the chiefs of police, the sheriffs, and the county officials. I am going to try to direct Operation Lifesaver to do more in that area, in reaching the law enforcement people, because it can produce good results.

Mr. COUGHLIN. What have been some specific accomplishments from this program over the past few years which have benefited rail safety?

[The information follows:]

We have no way of measuring direct benefits, such as specific numbers of accidents or casualties avoided, from the Operation Lifesaver program. However, we believe that highway-rail crossing safety benefits immensely from the exposure of the Operation Lifesaver message regarding crossing safety to thousands of individuals as is discussed below.

For 1989, Operation Lifesaver, Inc. (OLI) reports that over 2.8 million pieces of printed material were produced and distributed; combined with 38,000 non-print materials distributed, the total tangible materials produced and distributed by OLI came to nearly three million.

Eight Regional Workshops were held in 1989, drawing 375 attendees. Ninety-nine percent of the attendees voted for continuation of this series of training opportunities.

Over 119,000 miles were traveled by National Support Center staff, with 24 states personally visited and provided with direct technical assistance. State Coordinators were assisted with a range of projects, from implementing Officer-On-The-Train enforcement programs to reorganization of state committees. New methods of service delivery such as the OL TipSheet and the Regional Liaisons were implemented and received with great success.

National Support Center WATS-line calls increased from 72 in the first month to 241 in December, 1989, an increase of 235%. In response, general information packets were designed which include sample brochures and printed information, as well as the name and address of the State Coordinator for each individual to contact. A packet was sent to each caller. Also in response, OLI staff and volunteers fulfilled many speaking engagements, exposing an additional 2,000 industry people to the accomplishments and goals of OLI.

The 1990 OLI budget includes a National OL Symposium (to be held in Ceour d'Alene, Idaho, July 9–12), the production of a generic OL film, the distribution of additional public service announcements featuring actor Michael Gross (the OL National Spokesperson), the release of two different brochures targeted on mature drivers and law enforcement personnel, the procurement of a freestanding display, and emphasis programs for truck drivers and those states which are experiencing increases in accident statistics.

GRADE CROSSING ACCIDENTS

Mr. COUGHLIN. There are currently over 110,000 unsignaled public grade crossings in the United States. In recent years, the number of annual fatalities at grade crossings has averaged over 600; the number of injuries has been several thousand each year. They are the highest source of railroad-related deaths and injuries. What is being done to improve safety at grade crossings besides those activities previously done?

Mr. CARMICHAEL. There are some demonstration projects that are being planned. I also, under the National Transportation Policy Plan, have gotten to be a close friend and associate with Dr. Larson at the Federal Highway Administration. And the Federal Highway Administration and the Federal Railroad Administration are working on some innovation in grade crossing; some new ideas. I am not at liberty to divulge what they want to do at this point, but they are willing to sit with FRA, and we are going to try to do some bigger and more innovative grade crossing demonstration projects.

Mr. COUGHLIN. Why does FRA oppose the expansion of its post-accident drug and alcohol testing program to include major grade crossing accidents in which railroad employees' actions contribute to the accident?

[The information follows:]

It is extremely rare for the actions of railroad employees to contribute significantly to the occurrence of a rail/highway grade crossing accident. Because automobiles can stop in short distances, while trains cannot, trains have the right of way at crossings. Prevention of grade crossing accidents requires adequate protection or separation of crossings, attention to maintenance of adequate motorist preview at crossings not protected by active warning devices, and appropriate compliance and caution by the motor vehicle operator. Crossing safety would not be materially advanced by identifying rail employees who may have used alcohol and drugs, since such use will rarely have contributed to the accident. At the same time, many hundreds of sober employees would be required to provide both blood and urine samples under circumstances where they had no responsibility for the triggering event.

To the extent it can be argued that alcohol and drug use by railroad employees might contribute to a grade crossing accident, FRA has in place a wide range of countermeasures designed to prevent such use.

RUNAWAY TRAINS

Mr. COUGLIN. In light of the problem of freight trains "running away" on mountain grades, what is FRA doing to ensure that trains are being given the required pre-departure air brake testing at initial terminals, as well as the required intermediate testing when cars are picked up and added enroute?

[The information follows:]

FRA maintains an aggressive enforcement effort regarding carrier compliance with power brake rules. FRA inspectors, augmented by certified state inspectors in many states, observe train brake tests virtually everyday across the nation. Not limited only to terminals and yards, crews making tests on cars added to enroute trains at outlying locations are also subject to observation by inspectors conducting train riding inspections. FRA believes if employees properly conduct existing air brake testing procedures, there is every reason to believe a train will safely complete its journey regardless of terrain.

Another valuable source of information is employees who notify FRA if suspected abuses of proper air brake test procedures occur. FRA responds to each and every complaint and conducts an investigation to determine the facts. Violations are prepared if warranted.

In any instance where noncompliance is noted, FRA takes aggressive enforcement action through assessment of civil penalties. There is no tolerance for incomplete or improper brake tests.

NEW RAILROADS' OPERATING RULES

Mr. **Coughlin**. Are newly-created railroads being required to file programs of operating rules training and testing? If so, what methods are used to evaluate the adequacy of such programs?

[The information follows:]

FRA is currently reviewing requirements established in 49 CFR 217 regarding the filing of operating rules training and testing programs. Adequate FRA control over content and quality of operating rules programs needs better definition. We are considering options available to strengthen our ability to monitor railroad operating practices in this regard. Discussions are underway between the Office of Safety and Office of Chief Counsel to propose a remedy to this situation.

In the meantime, FRA is making a concerted effort to contact all new shortline and regional railroads to analyze each and assist them in gaining compliance with FRA regulations regarding rules filings.

"COMMON CORRIDOR" SAFETY

Mr. **Coughlin**. In a recent report to WMATA, the NTSB testified to some of the hazards that can be present in "common corridors", those rail lines which are shared by both rapid transit and heavy-haul rail systems. NTSB concluded that the risk of accidents in common corridors could be reduced by such things as frequent track safety inspections, high-wide load detectors, and communications links between the railroads and rapid transit control centers. Has FRA reviewed the need for such equipment and operating practices, and if so, what requirements do you anticipate for the railroad/rapid transit common corridor?

Mr. **Carmichael**. The limit in this question is that FRA does not have any authority over the transit lines, but we have done some work with the transit lines. I think Mr. Walsh has a comment.

Mr. **Walsh**. Without jurisdiction over the transit lines, Mr. Coughlin, we are kind of limited; we can only make suggestions to them. We have made suggestions right here in Washington as a result of the intrusions by CSX on two occasions on the red line. We think that there are systems now that are available to the transit company so that when you do have an intrusion, it will automatically put the signal systems at stop or shut off the electricity. There are just such discussions going on at the present time.

Mr. **Coughlin**. Do you agree with the NTSB recommendations?

Mr. **Walsh**. Yes, sir.

CONTINUOUS WELD RAIL

Mr. **Coughlin**. Continuous-weld-rail (CWR) has been in use in the U.S. for more than 50 years, and track buckling accidents continue to occur at a high rate. Is the FRA contemplating the inclusion of safety provisions in its minimum track safety standards to address this problem? If not, why not?

[The information follows:]

Track buckling caused train derailments are reported to FRA under Cause Code 115, "Track Alignment Irregular (Buckled)."

The highest number of reported derailments under Cause Code 115 for the past 15 years occurred in 1980: 174 derailments. A downward trend in that accident category has taken place since that year:

Year:	*Cause code 115 train derailments*
1980	174
1981	125
1982	81
1983	99
1984	71
1985	60
1986	50
1987	55
1988	63
1989	31

In the Mid-1980's FRA met with the Chief Engineers of the Class 1 railroads and emphasized FRA's concern for any and all track buckling caused accidents. A review by FRA, prior to those meetings, disclosed incomplete, and sometimes contradictory, instructions of each railroad to their employees regarding disturbing a CWR and the track's subsequent protection. Accordingly, the Chief Engineers reviewed their existing rules, printed procedures and published guidelines concerning laying and maintenance of CWR. In almost all cases the rules, procedures and guidelines were consolidated, revised and reissued to employees, to include railroad training programs.

Several Class 1 systems for example, extend from the temperate midwest, across high altitude mountain ranges, through arid and hot deserts to mild climate coastal plains. The railroad's. rules, procedures and guidelines, therefore, are varied and flexible to address climatic termperature extremes, geographic lay of the land, maximum authorized train speeds and annual gross tonnage.

Given the positive and effective response by each of the Class 1 railroads to FRA's concerns and the reduction, over 10 years, in track buckling caused train derailments. FRA, at this time, does not propose to alter or modify the Federal track Safety Standards for the purpose of CWR.

NTSB RECOMMENDATIONS

Mr. COUGHLIN. Over the years, the FRA has had a rather stormy relationship with the NTSB. Typically, you have had the lowest acceptance rate for NTSB recommendations of any agency. What is your overall assessment of the FRA's relationship with the NTSB today, and what are the remaining problem areas?

Mr. CARMICHAEL. There are 66 items outstanding right now between NTSB and FRA. When Mr. Kolstad became the Chairman, I wrote him a letter, congratulating him on his Chairmanship and asked for a meeting, what I call a settlement meeting, to address all 66 of these and get them behind us. I think that the relationship between NTSB's Chairman, Mr. Kolstad, and myself is very good at this point; I am going to try to get these resolved and am working with him. I received a letter from him this week, and the meeting is being set up.

Mr. LEHMAN. Mr. Coughlin. I think it might improve because the Deputy Administrator is now——

[Laughter.]

Mr. WALSH. You certainly hope so; that is for sure, Mr. Chairman.

Mr. LEHMAN. Mr. Coughlin, you may continue if you do not think that this is a family conflict of interest. [Laughter.]

Mr. COUGHLIN. Last year, FRA advised the Committee that, "we are finding that however we respond, the NTSB never closes any of our recommendations". It would seem that they do not like your responses very much. What is the problem in this particular area, and what is being done?

Mr. CARMICHAEL. Mr. Coughlin, that is what I hope to find out. I understand that we previously have been working on a "yes" or "no" type of basis, and I understand that there are some alternative solutions that NTSB will accept, and we are going to investigate those. While we may not do it the way that they want to do it, we may have another way that they will be satisfied with, and we are going to try to find that out. So, we are moving on that deliberately.

Mr. COUGHLIN. Please provide for the record a current listing of FRA recommendations classified, "Open—unacceptable action" by the NTSB, and state what is being done to resolve them.

[The information follows:]

NTSB has classified ten recommendations to FRA as "open-unacceptable action." However, the two agencies have initiated a renewed effort to address these issues constructively together. Administrator Carmichael and Chairman Kolstad met recently to further that process, and agency staffs have initiated a continuing series of staff-level meetings to address rail safety issues cooperatively. Although disagreements may occasionally remain, we share the expectation that this nonconfrontational approach will aid the successful resolution of all NTSB recommendations.

A list of the "open unacceptable" recommendations and the FRA position follows:

RECOMMENDATION NUMBER: R-87-033

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: AMEND THE TRACK SAFETY STANDARDS, 49 CFR 213.7, TO REQUIRE PERIODIC REQUALIFICATION OF PERSONS FOR SUPERVISING CERTAIN RENEWALS AND INSPECTION OF TRACK.

FRA POSITION:

- FRA REGULATION REQUIRES THAT THE INSPECTOR BE QUALIFIED IS A CONTINUING ONE.
- REQUIREMENT FOR QUALIFIED INSPECTORS IS ALREADY COVERED IN THE FRA REGULATION
- ADDITIONAL REQUIREMENTS ARE NOT NECESSARY
- FRA FOUND THE ACTION REDUNDANT
- RECOMMENDATION SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-84-046

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION EXPEDITE THE STUDIES ON THE INTERIOR DESIGN OF PASSENGER CARS, DESCRIBED IN THE JANUARY 1984 REPORT TO CONGRESS, AND PUBLISH RECOMMENDED GUIDELINES FOR SECURING SEATS AND FOR LUGGAGE RETENTION DEVICES.

FRA POSITION:

- FRA IS AMTRAK'S BANKER AND A MEMBER OF THE BOARD, AND CAN ACCOMPLISH OBJECTIVES WITHOUT AMTRAK REGULATIONS
- FRA & AMTRAK HAVE AGREED ON SEAT LOCKING DEVICES, IMPROVED BAGGAGE RACKS, MICROWAVE SECUREMENT, IMPROVED SEAT CUSHIONS
- FRA DOES NOT PLAN FURTHER ACTION ON THE RECOMMENDATION AND IT SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-87-023

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: PROMPTLY REQUIRE LOCOMOTIVE OPERATING COMPARTMENTS TO BE DESIGNED TO PROVIDE CRASH PROTECTION FOR OCCUPANTS OF LOCOMOTIVE CARS.

FRA POSITION:

- AAR & MANUFACTURERS HAVE ADOPTED CRASHWORTHINESS STANDARDS FOR LOCOMOTIVES BUILT AFTER AUGUST 1, 1990
- STANDARDS INCLUDE ANTICLIMBER DEVICES, COLLISION POSTS AND INCREASED HOOD STEELPLATE THICKNESS
- NO FURTHER ACTION IS CONTEMPLATED AND THE RECOMMENDATION SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-88-020

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: MODIFY TITLE 49 CODE OF FEDERAL REGULATIONS PART 229 TO REQUIRE COMPATIBLE MAIN FRAME SILL HEIGHT STANDARDS.

FRA POSITION:

- FRA HELD A HEARING ON LOCOMOTIVE ISSUES
- FRA FOUND THAT ANTI-CLIMBERS, CRASH POSTS AND INCREASED THICKNESS ON HOODS WOULD PROVIDE THE MOST BENEFIT. SEE POSITION ON R-87-23
- FRA PLANS NO FURTHER ACTION ON THE RECOMMENDATION AND IT SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-86-045

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: REEXAMINE THE STANDARD APPLICABLE TO TRAINS' AUDIBLE WARNING SYSTEM AND REQUIRE IMPROVEMENTS IN THE AUDIBLE WARNING SYSTEMS ABILITY TO ALERT MOTOR VEHICLE DRIVERS TO APPROACHING TRAINS.

FRA POSITION:

- REVIEW WITH OPERATION LIFESAVER GROUP
- PROVIDE NTSB WITH RESULTS

RECOMMENDATION NUMBER: R-86-046

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: IN CONJUNCTION WITH THE FEDERAL HIGHWAY ADMINISTRATION, STUDY, REPORT, AND UNDERTAKE FURTHER DEMONSTRATIONS ON THE FEASIBILITY OF ADOPTING HIGHWAY TRAFFIC SIGNALS AS PRIMARY WARNING DEVICES AT GRADE CROSSINGS.

FRA POSITION:

- FRA TO EVALUATE IN ACCORDANCE WITH RAIL SAFETY ACT OF 1988 PROVISIONS

RECOMMENDATION NUMBER: R-85-129

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: ESTABLISH REGULATIONS THAT ADDRESS THE ISSUES SURROUNDING THE USE OF RADIOS FOR OPERATIONAL PURPOSES ON TRAINS TO INCLUDE, BUT NOT BE LIMITED TO, REQUIREMENTS FOR RADIOS TO BE INSTALLED ON TRAINS; USAGE REQUIREMENTS FOR INTER- AND INTRA-TRAIN COMMUNICATIONS; USAGE REQUIREMENTS FOR DISPATCHING AND CONTROL OPERATIONS; FREQUENCY COMPATIBILITY REQUIREMENTS; AND MAINTENANCE, INSPECTION, AND TESTING REQUIREMENTS.

FRA POSITION:

- FRA HAS CONDUCTED A SAFETY INQUIRY
- DISPATCHER STUDY INCOMPLETE
- ACTION INCOMPLETE
- FRA WILL PROVIDE FURTHER INFORMATION

RECOMMENDATION NUMBER: R-88-031

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: AMEND 49 CFR PART 219 TO REQUIRE RAILROADS TO COLLECT ALL APPROPRIATE TOXICOLOGICAL SAMPLES AS SOON AS PRACTICABLE AND NOT MORE THAT 4 HOURS AFTER THE TRIGGERING EVENT. WRITTEN EXPLANATION OF THE REASON(S) FOR FAILURE TO COLLECT SAMPLES WITHIN 4 HOURS OR NOT AT ALL MUST BE SUBMITTED TO THE FEDERAL RAILROAD ADMINISTRATION.

FRA POSITION:

- FRA HAS THOROUGHLY CONSIDERED THIS POSITION ON SEVERAL OCCASIONS
- CONCLUDED THE ACCIDENT SITUATIONS ARE TO DIVERSE FOR A SET HOUR FIGURE TO BE PRACTICAL
- ADDITIONAL REPORTS NOT MEANINGFUL
- RECOMMENDATION SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-80-011

EXTEND THE REQUIREMENTS OF 49 CFR 179.105, INCLUDING THOSE FOR HEAD SHIELDS AND THERMAL PROTECTION, TO INCLUDE NEW AND REBUILT SPECIFICATION 105 CARS.

FRA POSITION:

- DATA BEING ANALYZED
- NPRM IN PREPARATION (HM-181)
- WILL COVER MORE COMMODITIES
- RECOMMENDATION SHOULD BE CLOSED

RECOMMENDATION NUMBER: R-85-054

THE NTSB RECOMMENDS THAT THE FEDERAL RAILROAD ADMINISTRATION: DEVELOP IN COOPERATION WITH THE RAILROAD INDUSTRY AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY CRITERIA FOR EMERGENCY PLANNING AND RESPONSE FOR USE BY OPERATORS OF RAILROAD YARDS THAT HANDLE BULK SHIPMENTS OF HAZARDOUS MATERIALS AND INCORPORATE THESE CRITERIA INTO APPLICABLE SECTIONS OF 49 CFR. THE CRITERIA SHOULD ADDRESS, AT MINIMUM, EMERGENCY PLAN CONTENT, INITIAL NOTIFICATION PROCEDURES, THE CONDUCT OF EMERGENCY DRILLS AND EXERCISES, AND THE COORDINATION OF PLANNING AND RESPONSE ACTIVITIES WITH LOCAL PUBLIC EMERGENCY RESPONSE OFFICIALS.

FRA POSITION:

- FRA HAS PROVIDED NUMEROUS REPORTS, REVIEWS AND OTHER INFORMATION ON EMERGENCY RESPONSE PLANS
- SEVERAL REPORTS REMAIN TO BE FINALIZED
- RECOMMENDATION SHOULD REMAIN OPEN UNTIL FRA PROVIDES FINAL REPORT

IOWA RAILROAD NTSB FINDINGS AND FRA'S ASSESSMENT

Mr. **Coughlin**. Following a July 1988 accident involving two Iowa Interstate Railroad (IAIS) freight trains in which two crew members were killed, the NTSB concluded that, "for more than three years, the FRA failed to exercise its statutory responsibility to oversee adequately railroad operations on the IAIS". They recommended that FRA take immediate action to conduct a safety audit of the operating practices of the IAIS. What is the status of this audit and what did you find?

[The information follows:]

A safety assessment of the Iowa Interstate Railroad was completed in late 1989 and the report of findings will be distributed in April.

During the assessment FRA found that the Iowa Interstate has made significant progress in operational safety since the head-on collision in July 1988. Operating practices have been tightened considerably in many areas. But problems do remain. Program documentation and management involvement and emphasis in safety are but two examples in this realm. The soon to be published assessment report will provide detailed analysis of FRA findings and recommendations.

[**Clerk's note.**—FRA's "Safety Assessment of the Iowa Interstate Railroad, LTD" is in the Subcommittee's file.]

FRA HQS AND FIELD PERSONNEL COORDINATION

Mr. **Coughlin**. NTSB also concluded that there was inadequate communication between FRA field and headquarters personnel, and that there was little or no follow-up on defects noted on field inspection reports. What are you doing to address these concerns?

[The information follows:]

We agree that communications within any organization could always be enhanced. That is one reason FRA adopted a comprehensive quality improvement program. Through this program we are able to quantitatively measure field inspection activities. Through information available on the data base, headquarters and regional staff should be better able to monitor industry activities and designate areas where additional inspection emphasis is needed.

Communication between field and staff has improved. We recognize the importance of good communication and have set about to improve it. Involvement of field personnel in headquarters activities through temporary assignments is one method used to facilitate understanding and communication. Seeing how a counterpart functions serves to enhance familiarity between the role each entity plays in agency operation. This, along with the recent reassignment of several headquarters staff officers from field assignments, has removed some barriers to good communication.

Future improvements in this area are expected with the acquisition of an aggressive training program whereby exposure to staff and field responsibilities will be highlighted.

EVENT RECORDERS

Mr. **Coughlin**. In last year's hearing, FRA stated its belief that the Rail Safety Improvement Act of 1988 allowed FRA the flexibility to decide whether or not to require event recorders. NTSB does not agree; they believe that the act *requires* the use of event recorders. Why is there a disagreement? Is the law ambiguous in that regard?

[The information follows:]

The event recorder provision in the Rail Safety Improvement Act of 1988 appears to be one of those sections in which Congress required issuance of rules, while implicitly vesting the Secretary with discretion as to the specific provisions to be adopted depending on the facts developed by the agency. However, the need to make a final legal judgment on Congress' intent has not arisen, since FRA is continuing to examine the event recorder issue on its merits.

Mr. **Coughlin**. Please include a citation of the pertinent section of the RSIA.

[The information follows:]

The provision involved is section 10 of the Rail Safety Improvement Act of 1988.

PASSENGER CAR SAFETY

Mr. **Coughlin**. The NTSB has had a longstanding concern over passenger rail car safety, and they have made a number of recommendations to both FRA and Amtrak. These involve such safety problems as lack of seat restraints, unrestrained baggage, and unpadded metal seat parts. They advised us this year that they are pleased with Amtrak's progress, but that FRA "has concluded that no further action is necessary." What exactly are these recommendations, and why is no further action necessary on your part?

Mr. **Carmichael**. Since we have one national passenger train system called Amtrak in this, then, in working with NTSB, they are doing a good job of reaching some solution. Mr. Claytor has come up with several good solutions. FRA's position in this kind of relationship has been as observer, and we feel good, just like NTSB, that Amtrak has responded to their request.

LOCOMOTIVE CAB SAFETY

Mr. **Coughlin**. The NTSB has presented to the Committee a strong argument that locomotive cab safety needs to be improved. According to their data, the board first recommended such improvements 20 years ago, and they described eight accident investigations between 1975 and 1987 in which the NTSB continued to make recommendations for locomotive cab safety. One of their main recommendations involves setting a standard for locomotive sill height, which would prevent one cab "over-riding" the other in a collision. Why have you not implemented such a standard?

Mr. **Carmichael**. The FRA has done some work in cab safety. I have come out of the automobile industry and have been deeply involved in automobile safety through the years. I still think that there is an awful lot of area in which the cab of a locomotive can be a lot safer. The whole purpose of making the locomotive cab safer is to protect the team onboard the train, and I hope that I can personally make some contributions to some ways to protect those people, the engineers, the conductors, the brake men, and people like that. So, I am going to apply some of my automobile experience to this area. This first year, I was not able to get into it, but this second year, I would like to get into cab design and cab safety, primarily for ways to get that engineer or that operator out of that cab safely, or to protect him in an accident.

Mr. **Lehman**. Mr. Coughlin, if you would yield. I've always asked, "Have you seen the movie, Runaway Train?"

Mr. **Carmichael**. Yes, sir, I sure did.

Mr. **Lehman**. And do you have any comments on that for the record?

Mr. **Carmichael**. On Runaway Train?

Mr. **Lehman**. Whether that can really happen.

Mr. CARMICHAEL. Whether that can really happen? No, I would say not.

SILL HEIGHT PROBLEM

Mr. COUGHLIN. I do not think that you responded to the question of the sill height, the recommendation that has been made.

Mr. CARMICHAEL. I understand the question on sill height; I do not have an answer for it because of the universe of locomotives out there and the different sill heights that exist. The proposal for a common sill height is to try to protect one locomotive from overrunning another locomotive. I go to the more fundamental thing, how to protect the engineer in this overriding and how to help the engineer to safety? I do not have an answer for solving the sill height problem.

Mr. COUGHLIN. Are there required design standards for the railcars themselves? And if there are, should there not also be standards for locomotive sill height?

Mr. CARMICHAEL. Let me defer then to my Safety Administrator. Joseph.

Mr. WALSH. There are some standards, Mr. Coughlin. We have done quite a bit of work in the past year by having a series of meetings with the Association of American Railroads, and with the two locomotive manufacturers. We not only look at the sill height, but we are also looking at the collision posts and the design of the locomotive to see what can be done. And I think that we have made progress in that the two manufacturers and the railroads that are purchasing new locomotives have agreed that they would make some changes in locomotives to be built after August 1 of 1990. This probably is not sufficient; we still have an awful lot more work to do, but we have made some progress in that area.

Mr. COUGHLIN. That has been a problem for 20 years; that seems like a long time.

Mr. WALSH. Yes.

Mr. CARMICHAEL. Mr. Coughlin, from my own experience in automobile safety, they seem to be working with the wrong thing. There probably is a way to protect an engineer in a cab in these types of accidents of overriding and there ought to be a capsule or a box that they can hide in, or something else like that. But the protection of the person is what we should be involved in. In my own contribution to this issue, I would like to see if we can approach it from a different direction and solve this twenty-year dilemma.

Mr. COUGHLIN. Another recommendation involves, as you say, the improvement of the structural integrity of the locomotive cabs themselves. Why do you disagree with the NTSB's recommendations in this area?

Mr. CARMICHAEL. This is the comment, right here. Again, I will just defer to my expert on this.

Mr. WALSH. Again, we have not regulated, as the NTSB has recommended, but we have worked with the two manufacturers, and right now, there is a new cab design that is being implemented. Listening to the Administrator's remarks, it possibly still does not go far enough, but it is an improvement over what we have had in the past.

Mr. **Carmichael.** Mr. Lindsey would like to add a comment.

Mr. **Lindsey.** If I may add a comment, the general regulatory approach that the FRA has followed addresses this also. We have tried to do our rulemakings in a kind of priority order, looking at those first that will have the largest safety bang for the buck; in effect, be the most cost-effective. And do the first in priority first. If the industry can be brought to change without a regulation, we do that, and regulate only in the areas where compliance cannot otherwise be achieved. I think that you are seeing that reflected in the discussions with the industry that Mr. Walsh was referring to, where hopefully an industry standard will be set that will meaningfully address what the NTSB has pointed out.

CAB CRASHWORTHINESS

Mr. **Coughlin.** According to a study conducted by the National Space Technology Laboratories for the FRA, 76 percent of all injuries and 60 percent of all fatalities in rail accidents occur at collision speeds of 15 miles an hour or less. During the 1983 to 1987 period, 47 people died and 586 were injured in head-on and rear-end rail collisions. Are these numbers accurate, and do they not suggest a need to improve cab crashworthiness along the lines that the NTSB recommended?

[The information follows:]

The FRA accident data collected during the years 1983 through 1987 for collisions reveal that 85 percent of the fatalities and 15 percent of the injuries occurred at speeds above 15 miles per hour.

During this time period, 248 head-on and/or rear end collisions resulted in 56 fatalities and 938 injuries at speeds in excess of 15 miles per hour. The fatalities include the 15 passengers and one crew member killed in the Amtrak/Conrail collision at Chase, Maryland.

Of the 1,562 head-on and/or rear end collisions which occurred at 15 miles per hour or less, 10 fatalities and 32 injuries were reported.

The NTSB recommended that the FRA issue regulations for locomotive crashworthiness. This was not done because the FRA, along with the Association of American Railroads (AAR) and the Brotherhood of Locomotive Engineers (BLE), was involved with the Ad Hoc Locomotive Control Cab Committee. On December 1, 1989, Mr. Harvey H. Bradley, Vice President, AAR, advised the FRA that the AAR, in cooperation with the locomotive manufacturers, had adopted Locomotive Crashworthiness Standards for all new, road type locomotives built after August 1, 1990.

The standards require the inclusion of anticlimber devices on the short hood end of the locomotives; two collision posts designed to withstand a longitudinal force of 200,000 pounds each at 30 inches above the deck and 500,000 pounds each at the underframe deck; and, increased thickness of the short hood end-facing area equivalent to ½-inch steel plate.

These standards are compatible with the technical discussions that the FRA has had with the representatives of General Electric and Electro-Motive Division of General Motors Corporation. They are also responsive to the specific concerns raised in FRA's Special Safety Inquiry, and consistent with the expert testimony and record established in that proceeding. Finally, labor, management and government representatives on the Locomotive Control Cab Committee have recognized the action of the AAR as an effective means of establishing and implementing improved locomotive crashworthiness design standards.

Mr. **Coughlin.** Did FRA not conduct hearings on the subject of locomotive crashworthiness last year? What were the overall results of your hearings?

Mr. **Walsh**. We held an inquiry, Mr. Coughlin, and invited railroads, railroad manufacturers, labor representatives, and some of the changes that I have just described for the record are a result of those hearings.

Mr. **Coughlin**. Please expand on your answers for the record, and include a listing of open NTSB recommendations to FRA in locomotive cab safety.

[The information follows:]

FRA initiated a Special Safety Inquiry into the safety of locomotive control cabs in September of 1988. Public hearings on this subject were held in Chicago on November 2-3, 1988. The topics under discussion include the engineering, environmental, and technical factors affecting the safety and work environment of the control cab. Crashworthiness of control cabs was one of the primary topics discussed. Based in part on the information developed in this proceeding, the railroad industry has adopted uniform design provisions for new locomotives to improve their crashworthiness. These voluntary standards were published September 13, 1989.

FRA is continuing to study other aspects of this subject. Of particular interest to FRA is the development of improved crash avoidance systems such as the advanced train control systems known as ATCS and ARES.

The following are open NTSB recommendations to FRA regarding locomotive cab safety: (1) Promptly require locomotive operating compartments to be designed to provide crash protection for occupants of locomotive cars, and (2) Promulgate regulations requiring that locomotives be equipped with shelf couplers compatible in strength with the main frame sill of the locomotive.

OUTSTANDING NTSB RECOMMENDATIONS

Mr. **Coughlin**. What is your timeframe for resolving the outstanding NTSB recommendations, the 66 items?

Mr. **Carmichael**. The 66 items? Mr. Coughlin, I hope that those are top priorities for this next month; the meeting should be set up in the next few days. We are just going to sit down and work them one at a time. Some, we may not be able to resolve. But we will come to that conclusion, too. We will address all 66 of them in this settlement meeting. I hope that will occur in the month of April.

RSIA RULEMAKINGS

Mr. **Coughlin**. Please update us on the status of each of the rulemakings required by the Rail Safety Improvement Act of 1988.

Mr. **Carmichael**. All right, sir. Pre-trip certification of ATC is completed. Orders requiring ATC on the northeast corridor were issued. Blue signal protection for maintenance of way workers and employee disqualification final rules are published. We have increased maximum penalties and the penalties against individuals. We have cleaned up the older safety laws, and we have taken care of the tampering.

We have pending: accident reports; that is where the employee can put in a supplement. I personally called back the worker safety on bridges rule to take another look at it myself; the worker safety on bridges tended to get into the OSHA area that we do not need to get into, and I wanted to satisfy myself that we were not over into OSHA responsibilities.

We are in the midst of the engineering certification rule. We have had our first hearing; the big hearing will be in Washington shortly.

The event recorders are still pending. As I understand it, about 50 percent of all the locomotives out here have event recorders on them. And in the train mix, where locomotives are used, about 75 percent of all the trains are running with event recorders right now. We are trying to see the justification of event recorders on all the locomotives when we have 75 percent of the trains now running with them.

I mentioned the grade crossing signal maintenance earlier. That is in the works right now. And the grade crossing demonstration projects we have underway.

Mr. COUGHLIN. Can you tell us which rules mentioned in the Act you have investigated but decided not to pursue, and tell us why you are not pursuing them.

Mr. CARMICHAEL. Let us see. When you asked that question, it puzzled me a little bit. I do not have any in the "not to pursue" category.

Mr. COUGHLIN. And are you behind schedule overall, or on schedule?

Mr. CARMICHAEL. As I mentioned earlier, the Safety Act of 1988 was a beautiful, major piece of legislation, and it gave FRA a tremendous workload. As I understand it, we are behind, but there is no casualness about it; we are moving very deliberately. Mr. Lindsey would like to make a comment, please.

Mr. LINDSEY. If I could add a note on the "not to pursue category," Mr. Carmichael referred to the difficulties with event recorders of getting over the cost benefit hurdle. And I suppose, if terminating a rulemaking without a rule falls in "not to pursue," category it is possible that event recorders could end up in that category if we cannot find something sensible to require that would be cost-effective. We do not yet know whether or not we will get there.

Mr. COUGHLIN. Please expand on your answers for the record, and include a future schedule to final ruling.

[The information follows:]

As Mr. Carmichael testified, none of the rulemakings required by the Rail Safety Improvement Act of 1988 fall into this category.

For those regulations not yet issued under the Rail Safety Improvement Act of 1988, the following is an estimated schedule:

May 30, 1990: Rule to provide for employee supplements to railroad accident reports where human error is assigned as a cause.

Consider need for FRA rules on bridge worker safety. No determination made as yet.

December 31, 1990. Rule to establish a program for licensing or certification of operators of locomotives through a program of review and approval of each railroad's qualification standards.

October 31, 1990: Proposed rule requiring tamper-resistant event records on trains.

July 15, 1990: Proposed rule to ensure maintenance of train-activated signal systems and devices at highway grade crossings.

LOCOMOTIVE ENGINEER QUALIFICATION STANDARDS

Mr. COUGHLIN. One of these rulemakings concerned the establishment of locomotive engineer qualification standards. The FRA advised us last year that this program will be largely left up to the railroads for implementation. How does FRA plan to monitor and enforce these standards? How many staff years are necessary for that task, and how many have you budgeted?

Mr. CARMICHAEL. Again, in our industry, we tend to monitor their procedures and their policies, and they will do the licensing, as I understand it. We have outlined the rules for the licensing. They are submitting their plans and programs. And their implementation will be the same as it is with random drug testing or any other rule: We will be very tight and very specific in watching this licensing program as the railroad implements it, and then monitoring after they have done it to make sure that they maintain the standards. As to the staff years for this task, I will have to refer to my budget man.

Mr. CECCUCCI. We have not earmarked any FTEs for the monitoring of this activity; we do have some contract support requests, though, so that we can review and approve those plans that do come in.

Mr. COUGHLIN. Please expand on your answer for the record, and include a schedule for this rulemaking.

[The information follows:]

FRA issued a comprehensive proposed rule concerning the qualification of locomotive operators on December 11, 1989. FRA scheduled public hearings on the proposal for March 14, 1990, in Chicago and for April 11-12, 1990, in Washington, D.C. The deadline for submitting written comments on the proposal has been extended to May 4, 1990. FRA has proposed making a final rule in this proceeding effective on or about December 31, 1990. Under the proposed system, railroads themselves would issue the operating certificates and could not require or permit anyone to operate a locomotive who did not hold the proper certificate. Although railroads would be free to have more stringent criteria, FRA's proposal would require railroads, as a minimum, to make six determinations concerning anyone being authorized to operate a locomotive. Prior to issuing a certificate, each railroad would determine that the prospective operator:

(1) has the necessary visual and hearing acuity to perform such service;
(2) has the necessary knowledge, as demonstrated by passage of a written examination;
(3) has the necessary skills to operate a locomotive or train, as demonstrated by passage of a performance skills test;
(4) is eligible to become an operator, as demonstrated by a review of the person's prior record of conduct as a railroad employee and as a motor vehicle operator;
(5) has completed a training program appropriate for the type of operations he or she will perform (although, under most circumstances, such a formal training program will not be necessary for grandfathered operators or those being recertified); and
(6) is familiar with the physical characteristics of the territory in which he or she will operate.

Conversion to the certification program would commence immediately after adoption of the rule. To ease the transition process, individuals authorized to operate locomotives when the rule becomes effective would be presumed qualified for the purposes of this rule. That interim presumption would terminate within three years. During that three-year interval, all "grandfathered" operators would have to become fully qualified under this rule.

In making a determination concerning a person's vision and hearing, a railroad would have to review a competent medical evaluation of the individual's acuity levels. If warranted by the person's physical condition, the operator would be required to use appropriate corrective devices while on-duty.

In making a determination concerning the person's knowledge a railroad will have to administer a written examination covering the appropriate rules and safety practices of that railroad.

Initially, railroads will have considerable discretion in developing these tests until time permits greater standardization of such tests. To improve operator competency, FRA proposes to require supplemental training triggered either by the passage of time or significant changes in operations.

In making a determination about the person's performance skills a railroad would have to administer a skills test either by monitoring the person's computer-simulated operation of a train or by monitoring actual operation of a test train. In addition, railroads will have data concerning the person's routine performance of duty through the conduct of an operational monitoring program. That monitoring program would require annual evaluations of an operator's skills during routine operations. The testing of operator skills would structured to reflect the varying service levels being proposed. Operators would be precluded from operating in a manner that would exceed the service levels for which they have been evaluated.

In making determinations about the person's eligibility to be an operator railroads would have to consider, where pertinent history exists, the individual's recent (previous 5 years) conduct as a railroad employee and as a motor vehicle operator. Such considerations are limited to evaluating instances where the operator candidate voluntarily has created such a behavioral history. A point system would be used to evaluate the significance, for the purposes of this rule, of instances in which the person had been involved with alcohol or drugs either while on duty as a railroad employee or while operating a motor vehicle and a variety of instances in which the person operated a train or motor vehicle unsafely.

Any single incident of substance abuse would trigger an evaluation by a skilled professional (e.g., medical review officers and Employee Assistance Program (EAP) counselors) of the significance to be attached to such an event. Both railroad employment incidents and motor vehicle driving incidents involving substance abuse would generate this response. Those found to have received appropriate counseling or treatment after the incident occurred would not have any points attributed to the system by virtue of those incidents. Absent such professional findings, each incident would be assigned a value of three points and be considered under the system's criteria for eligibility. The professional would also have to consider whether the person is currently dependent on alcohol or drugs or has a treatable disorder involving abuse of alcohol or drugs as a manifestation. If the professionals conclude that such a condition exists and sufficient intervention has occurred, railroads could permit the person to perform service subject to the aftercare and testing provisions contained in FRA's alcohol and drug rules.

Various incidents of poor safety performance while at the controls of a train also would generate points under this evaluation system. For example, operating without proper authority, excessive speeding, and tampering with safety devices would be considered the type of unsafe behavior that should be assigned three points. The key element in each of the specific events identified by FRA is that the incident involves a very dangerous situation in which it was appropriate to hold that person directly responsible.

Only four types of poor safety performance incidents while at the controls of a motor vehicle would have to be considered: reckless driving, excessive speeding, a moving violation in connection with a fatal accident, and driving with a revoked or suspended license. Each incident would generate two points under this system. Certification candidates would have the responsibility for furnishing the data concerning driving history. They would have to query the relevant state agencies and the National Driver's Register and make the results available to the railroad.

Candidates would be given an opportunity to review and comment on any adverse train operation or motor vehicle operation data before a railroad considered it. When considering such data any person with more than six points would be ineligible (at least for five years after his or her last incident). Those who have accumulated six points in two separate 5-year cycles would become ineligible for life. Those with six points could be certified after they attend a training course. Individuals who have accumulated less than six points are eligible and must be certified absent some other disqualifying condition.

Standards for the training of future locomotive operators also are included in this proposal. Railroads that elect to conduct such training programs would have to conform them to FRA's criteria concerning duration and content and obtain approval of their overall program. Students would be authorized to operate locomotives and trains when supervised by instructors.

Railroads would issue operators deemed qualified a certificate documenting their status, and operators would be required to have that certificate in their possession while on duty. Certificates would have to be renewed at 36-month intervals after again making the four determinations identified above. FRA has requested comment on the wisdom of using longer intervals if the railroads employ an ongoing evaluation of the person's eligibility to remain certified. Absent such an ongoing evaluation program (i.e., one in which the railroads continually monitor for events that could push the employee's eligibility point total over six), FRA will rely on its civil penalty and disqualification procedures to respond to unlawful behavior by certified operators.

FRA proposes to make certain operator actions, such as excessive speeding, that are not currently proscribed by specific regulation unlawful under the provisions of this rule.

WOMEN LOCOMOTIVE ENGINEERS

Mr. LEHMAN. I just wondered whether you have any data for engineer safety on the safety rate for men locomotive engineers as compared to women locomotive engineers?

Mr. WALSH. Data differing between the two?

Mr. LEHMAN. Yes; safety records.

Mr. WALSH. I do not believe that we have at the present time; there are so few female engineers out there. But one thing that I can say on our observation of them, Mr. Chairman, is that some of the female engineers are excellent; they have received——

Mr. LEHMAN. That is what I am getting at; maybe they are safer. But I do think that you can improve your safety record by encouraging and promoting opportunities for women as locomotive engineers. How many women do you think are driving locomotives?

Mr. WALSH. A very low number. Out of, probably, 20,000 to 25,000 engineers, there are probably only 100 or so. But the ones that we have observed just do an excellent job because they have had the more advanced training that has come on in recent years and, therefore, their train handling, their overall adherence to the operating rules, has been very, very impressive to us.

Mr. LEHMAN. I am trying to really pursue that a little bit. I think that you are missing a real opportunity to do something about safety because I think that there is even a higher percentage of women in commercial aviation than there is in the railroad industry, and probably even among bus drivers and other modes of transportation. FRA and the railroads are far behind the opportunities, probably. Thank you, Mr. Coughlin.

RAILROAD SAFETY USER FEES

Mr. COUGHLIN. Thank you, Mr. Chairman. Are you assuming any income from rail safety user fees in the fiscal year 1991 budget? If so, how much are you assuming, and what are the chances of those user fees becoming a law?

Mr. CARMICHAEL. I have no comment on the last part, Mr. Coughlin. The projection is that if the user fees are put in place; we collect for about half a year in fiscal year 1991, and generate about $20 million of user fees that will go into the treasury. Those user fees would not offset our appropriation.

Mr. COUGHLIN. Of those, has the legislation been submitted to Congress?

Mr. CARMICHAEL. Last May; yes, sir.

Mr. COUGHLIN. How many times has that legislation been submitted?

Mr. CARMICHAEL. One time previously, then again in May 1989.

Mr. COUGHLIN. Last year, FRA testified the following concerning user fees: "We have some concern that if the industry is funding the safety program, there is an appearance problem—almost a conflict of interest kind of issue—that somehow the policeman is being paid by those being policed. We would rather not be on that basis. Second, we have questioned the benefits that the industry derives as opposed to the public." Is this still the FRA's position, that the concept of rail safety user fees has significant problems?

Mr. CARMICHAEL. President Bush and Secretary Skinner's approach is that the users pay for their modes. That is the National Transportation Plan's approach, too. We are quite concerned, though, from a legal standpoint on how the user fees appear. That is why, in our minds, they definitely have to go into the Treasury, and not be offset in any way with the appropriations of FRA.

UNDERREPORTING OF ACCIDENTS

Mr. COUGHLIN. Last spring, the GAO issued a report, saying the nation's railroads often grossly underreported the number and severity of their accidents, cutting down on the overall effectiveness of their safety programs and the extent to which railroads have become safer. Are railroads underreporting, and has safety actually improved?

Mr. CARMICHAEL. We accepted that GAO report, accepted the data and the statistical error that they said that we had. When we applied the statistical error to our own statistics, the trend was still down and still very good, but it ratcheted up our statistics. Any time that we can get any improvement or any criticism regarding our data, we are open for it, and we accept it. And we have to make safety decisions on this data, and if anybody suspects it, I want to know about it, and we will make adjustments; we will verify it.

The GAO report was correct, and we did make a whole series of changes. In fact, from that GAO report, we are moving toward a professional in-house training program for federal inspectors and state inspectors.

Mr. COUGHLIN. And what is the status of your response efforts and plans for the coming year?

Mr. CARMICHAEL. Joe will answer this a little bit, too. The reports we are getting from the railroads are a lot better. The number of lost days has increased significantly.

Mr. WALSH. Mr. Coughlin, the GAO report highlighted two areas: The underreporting of the fender-bender-type accidents down at the $5700 level. We have notified all of the reporting officers for the railroads that they must be more conscientious in reporting, and also outlined the lost work days for injured employees. We have stepped up the record checks we are doing of railroads by our inspectors, and we have notified the reporting officers that we hold them accountable and take action against them if we find underreporting.

Mr. COUGHLIN. Have all five major recommendations made by the GAO essentially been implemented?

Mr. WALSH. Yes, sir.

Mr. COUGHLIN.

In response to a report last year by the GAO on the accuracy of industry data on injuries and accidents, you initiated a special safety inquiry to examine industry reporting to the FRA. You also planned to update existing rules for railroad internal controls and accident reporting. What is the problem here and how serious is it?

[The information follows:]

On November 3, 1989, FRA published a Notice of Special Safety Inquiry to examine FRA-imposed railroad safety reporting requirements. This inquiry addresses reporting requirements other than those for accidents. On March 14, 1990, FRA published an Advance Notice of Proposed Rulemaking regarding accident-related reporting requirements. In order to protect railroad employees, travelers and the public at large, FRA must have an accurate picture of the safety situation within the railroad industry. FRA's safety mission can only be effective if its regulatory activities are focused on real problems; thus accurate safety data is the cornerstone of an effective and efficient rail safety program. While the GAO stated that its investigation was such that it would not project its results to the entire rail industry, there are clearly some problems in both accident and non-accident reporting systems. FRA has thus initiated these two proceedings. We do not believe the reporting problem is a serious one; indeed, neither FRA nor GAO has any evidence that the rates of nonreporting over the past decade have varied during those years. Like all large statistical data bases reflecting the complexities of daily industrial events and built from the reports of differing sources, the FRA railroad accident data base inescapably reflects some margin of error.

Although the absolute numbers are not, and cannot be, perfect, the relentless decline in the major indicators of accidents, injuries, and fatalities over the past decade cannot be denied. And if, as GAO believes, accident reporting throughout the railroad industry has been improving in recent years, it follows necessarily that this trend of improvement in rail safety is, in fact, understated.

Mr. COUGHLIN. You were also planning a public hearing in January 1990 on this issue. Would you summarize the comments received during this hearing?

[The information follows:]

A Notice of Special Safety Inquiry was published on November 3, 1989, and an Advance Notice of Proposed Rulemaking was published on March 14, 1990. Hearings on both railroad reporting requirements and accident reporting requirements will be held on May 17 and 18, 1990. We are currently accepting comments from the public regarding the questions and proposals contained in the two notices. We believe that with the involvement of interested parties in these proceedings, the reporting systems can be improved, with the ultimate result being a more focused regulatory and enforcement program.

Mr. COUGHLIN. Please expand on your answer for the record.

[The information follows:]

FRA originally scheduled a public hearing for January 16, 1990 regarding railroad reporting requirements. This hearing was postponed until such time as a hearing on the related issue of accident reporting could be scheduled. With the March 14, 1990, publication of the Advance Notice of Proposed Rulemaking regarding accident reporting, hearings were scheduled for May 17 and 18, 1990.

Mr. COUGHLIN. Please also provide for the record a copy of the letter dated October 27, 1989, to the Chairman, House Committee on Energy and Commerce, on this issue.

[The information follows:]

A copy of the requested October 27, 1989, letter is attached.

U.S. Department of Transportation
Federal Railroad Administration

Office of the Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

OCT 27 1989

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Chairman Dingell:

In my letter to you dated August 28, 1989, regarding GAO's recent report (GAO/RCED-89-109) on railroad accident reporting, I described a number of steps FRA is taking in response. One of those was the initiation of a rail safety inquiry on ways to improve the accuracy of FRA's other reporting systems.

I have today issued a Notice of Special Safety Inquiry to kick off our close examination of non-accident FRA reporting requirements, and I am pleased to enclose a copy. These include such items as the return of repaired freight cars to service, operating rules, signal system failures, and employee service in excess of the maximum hours permitted. I am eager to hear the views of the public on the accuracy of these reports and the quality of the process we use to obtain the information.

As I also explained in my August letter, I intend to initiate a rulemaking proceeding by December 1 to address updates in our accident reporting process and the internal control procedures used by the railroads. Publication will promptly follow Departmental and OMB review. However, I believe this proceeding should address issues even broader than those I've previously described. We need to take a hard look at the assumptions underlying our accident reporting process, so we can consider whether fundamental changes may give us more accurate, more internally consistent, and more useful data about rail safety. For example, we should think about, and hear the public's views on, the timing of reports and their content. I also want to consider whether tracking more serious accidents as a separate category would give us a better tool for assessing the relative safety health of the rail industry.

Thank you for your letter to Comptroller General Bowsher requesting that FRA be given access to data underlying the GAO report that will help us assess reporting problems. We look forward to receipt of that information.

I very much appreciate your active interest in this key rail safety issue and look forward to receiving your views as this process of reexamination goes forward.

Sincerely yours,

Gilbert E. Carmichael
Administrator

Enclosure

4910-06

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

(Docket No. RSR-1, Notice No. 1)

Special Safety Inquiry;

Railroad Reporting Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Special Safety Inquiry.

SUMMARY: FRA is initiating a Special Safety Inquiry to examine FRA-imposed railroad safety reporting requirements. The inquiry is meant to explore whether the reporting process results in accurate data and whether there are methods of improving the process.

DATES: (1) A public hearing will be held at 10:00 a.m. on January 16, 1990, in Room 2230 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Any person who desires to make an oral statement at the hearing is requested to notify the Docket Clerk at least five working days prior to the hearing, by phone or by mail and must submit three copies of the oral statement that he or she intends to make at the hearing.

(2) Written comments must be received no later than Janaury 11, 1990. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

(2) A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-366-0628) or by writing to the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Chief, Office of Safety Analysis, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-366-0522), or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-366-0628).

SUPPLEMENTARY INFORMATION: FRA's primary function is to promote safety within the railroad industry. In order to protect railroad employees, travelers, and the public at large, FRA must have an accurate picture of the safety situation within the industry. FRA's safety mission can only be effective if its regulations and enforcement activities are geared towards real problems, rather than ones merely perceived. Thus, accurate safety data is the cornerstone of an effective rail safety program. Because of that, various FRA rail safety regulations require that reports be filed with the agency, some on a periodic basis, and others upon the occurrence of a specified event.

The General Accounting Office (GAO) recently issued a report (GAO/RCED-89-109 Railroad Safety) regarding the accuracy of railroad injury and accident data and FRA efforts for ensuring the accuracy of that data. GAO has pointed out important areas in need of improvement and FRA plans to make necessary improvements. Towards that end, FRA will, in the very near future, be initiating a separate rulemaking proceeding focusing exclusively on improvements in the accident/injury reporting systems.

This inquiry is being initiated because FRA is concerned that issues similar to those raised by the GAO in the accident reporting context may extend to other required railroad safety-related reports. GAO's concern about accident reporting led it to recommend that FRA: require that railroads establish injury and accident reporting internal control procedures; include an analysis of railroads' internal control procedures for reporting in FRA's inspections; and provide inspectors with the authority to take enforcement actions against railroads with inadequate internal control procedures.

Our paramount concern is that the information received by FRA be accurate and complete. We also want to ensure that only those reporting requirements necessary for the proper performance of FRA's safety function are imposed on the railroads, while minimizing the cost to the railroad of providing the information. If the information is not needed, we should not collect it. Similarly, if the information, while valuable, can be collected and reported on either a different schedule or through a different, less expensive means, we want to know about it.

We urge interested parties to share their views regarding safety-related reporting requirements listed in the Appendix to this notice. As noted above, accident reporting requirements will be the subject of a separate rulemaking in the near future and thus will not be considered in this inquiry. Similarly, because alcohol and drug test reporting is currently the subject of a separate rulemaking (49 FR 39646, September 27, 1989), it will not be addressed in this proceeding.

We encourage interested parties to comment on the following questions and on any other issue falling within the scope of this inquiry -- the following list is illustrative, not all-inclusive. Where appropriate, please identify the specific reporting requirement you are referring to.

1. Do the FRA reporting requirements summarized in the Appendix promote the submission of accurate data to FRA? If not, how can the system be improved? What costs would be associated with your suggested improvements?

2. If there are inaccuracies in the reporting system, what improvements in railroads' internal control procedures would reduce or eliminate the problem?

3. Should FRA impose specific internal control procedures on the railroads to assure proper reporting? What should those internal procedures consist of? What additional costs would be incurred?

4. Should deviations from such prescribed procedures render the railroads liable for civil penalties?

5. Instead of specific, prescribed procedures for internal control, would you favor FRA-established, generic standards for such procedures that would apply regardless of the differences among railroads?

6. A railroad is given a specific period of time to report after the occurrence of an event requiring FRA notification. Are these

periods long enough for the railroad to collect accurate information? Are they too long? Please be specific regarding the reporting requirement you are addressing.

7. Should there be a two-tier reporting process, with an initial report followed up by a later, ostensibly more accurate, individual report? Or should there be a later more complete report which consolidates the data of the early individual reports?

8. Are FRA's instructions for filing required data clear and informative? If not, how could the instructions be improved to eliminate any confusion? Please be as specific as possible.

9. Could the method of reporting data to the FRA be improved? How?

10. What is your view as to the advisability of electronic transfer of data. Would there be compatibility problems, and if so, how could they be overcome? How would such data transfer affect the speed and accuracy of a railroad's reporting? What would be the short term and long term effect of electronic transfers on the costs required to fulfill the reporting requirements?

11. **Would electronic data transfer affect the ability of FRA to determine compliance with the reporting requirement?**

Appendix

One-Time Reports

49 CFR Part 215 -- report regarding freight cars used in dedicated service

49 CFR Part 216 -- report when freight cars, locomotives, or track is returned to service following Special Notice for Repairs

49 CFR Part 217 -- file copy (and each amendment) of operating rules;
file program (and each amendment) for operational testing; and
file program (and each amendment) for instruction on operating rules

49 CFR Part 229 -- report (both telephone and written confirmation) of accident due to a locomotive failure or coming into contact with an electrically energized part

49 CFR Part 233 -- report within 24 hours of accident/incidents arising from signal system failure

report within 15 days of signal system failure

Periodic Reports

49 CFR Part 217 -- annual reports regarding operational tests and inspections

49 CFR Part 228 -- monthly reports of excess service

49 CFR Part 233 -- annual signal system report

Issued in Washington, D.C., on 1989.

Gilbert E. Carmichael
Administrator

Mr. COUGHLIN. Please also provide for the record a copy of the letter dated August 28, 1989, to the Chairman, House Committee on Energy and Commerce, which contains FRA comments on the GAO report concerning accident data reporting.

[The information follows:]

US Department of Transportation
Federal Railroad Administration

Office of the Administrator

400 Seventh St. S.W.
Washington, D.C. 20590

AUG 28 1989

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Chairman Dingell:

As requested in your letter of April 28 to Secretary Skinner, I write to report on our response to the General Accounting Office's (GAO) April 1989 report (GAO/RCED-89-109) on five railroads' reporting of accidents and injuries to the Federal Railroad Administration (FRA).

I am pleased that the GAO staff recognizes that in most respects railroad accident reporting appears to be better than that in many other U.S. industries. At the same time, I am concerned that some railroads are not performing as well as they should. Moreover, as a matter of personal policy, I believe that better decisions are made when one skeptically examines the data, however good they may be, on which one must rely. The report raises important questions about the quality of railroad compliance with FRA's accident reporting regulations. We are very pleased to have GAO's contribution as we work to improve this vital process.

GAO states that it cannot project the results of its study to the rest of the rail industry. However, we believe that GAO's finding of varying margins of error during 1987 on portions of three major railroads is cause for concern. FRA has previously found similar problems on other major railroads; our experience in helping those railroads improve their reporting processes leads us to believe that GAO has focused on important concerns.

Let me now apprise you of FRA's response to that report--both the measures we are taking and a few comments we have about the report itself.

GAO's Recommendations

Based on underreporting found on three railroads, GAO recommends that FRA --

- require railroads to establish injury and accident reporting internal control procedures,

- include an analysis of railroads' internal control procedures for reporting in FRA's safety record inspections,
- provide inspectors with the authority to take enforcement actions against railroads with deficient internal control procedures,
- require railroads to update reports on workdays lost due to injuries, and
- clarify FRA's requirement for railroads to update accident reports when significant changes occur.

FRA Action

FRA is taking the following measures:

1. **Allocating additional inspector time to the close review of railroads' accident reporting records in the course of our normal inspection and assessment activity.**

FRA's Operating Practices inspectors have begun to allocate additional time for records checks to review the accuracy of the railroads' reporting. In recent years, those inspectors have allocated 4.7 percent of their time to review of railroad accident reporting records. FRA has decided to approximately double that level of effort. As part of this intensified inspection activity, our inspectors will also evaluate the system controls that are in place between the claims office, other reporting sources, and the safety reporting office on several railroads to ensure that all accidents and injuries are reported correctly to FRA. On the basis of their findings we will be able to assess the extent of the problem and the potential need for corrective action throughout the industry. It is imperative that all railroads adhere to effective internal control procedures for reporting accidents/incidents to FRA.

2. **Increasing enforcement action for violations of the accident reporting regulations.**

As a concomitant of increased inspection activity, FRA believes that more frequent use of the civil penalty power is appropriate. The railroads that are underreporting accidents will take seriously the necessity for accurate reporting when the failure to comply results in such penalties. Enforcement action is especially likely where we find any failure to report serious accidents and incidents related to train operations.

3. Initiating a rulemaking proceeding by December 1, 1989, to clarify the need to submit amended monthly reports and to require internal control procedures used by the railroads to ensure accurate and timely reporting to FRA.

FRA intends to initiate a proposed regulatory amendment that would require the railroads to file amended monthly reports that would agree with the railroad's annual report. Under such a procedure, we would allow the railroads to send in updated information about each accident/incident on floppy diskettes or magnetic tape. (Railroads currently can update their individual filings only through submission of individual amended reports). By providing a simpler method of updating reports the burden on the railroads would be reduced, and we would expect accuracy to improve.

FRA concurs that the difficulty some railroads have in assuring prompt and accurate accident reporting stems from the lack of effective coordination and communication among railroad safety offices, repair shops, and claims departments. The lack of follow-up review and coordination with other departments in the railroad prior to submitting a report to FRA can result in inaccurate reporting. Following our own evaluations of a railroad's reporting practices FRA often stresses to railroad management that better coordination must be established between the safety officer and other departments. GAO notes that reporting accuracy has improved when these FRA recommendations have been implemented.

Especially with the advent of computer-assisted recordkeeping, and as recognized by the GAO, railroads have been implementing important improvements to their internal control procedures for reporting to FRA. Because the usual role of a safety regulatory agency is to establish standards and monitor compliance, not to prescribe required means for compliance, FRA intends to propose that railroads be required to have internal control procedures which meet mandated standards. It is unclear whether generic internal control procedures appropriate for all railroads can be devised and required, but it seems highly likely that standards for such procedures can be devised that would permit variations to meet the needs and circumstances of individual railroads without compromising reporting accuracy. During the rulemaking process, successful approaches to this problem can be shared among FRA, railroads with good systems, and railroads lacking such systems. Of course, the reporting obligations of railroads must be crystal clear and enforcement must be adequate to ensure compliance.

We expect that the rule would enable FRA to satisfy GAO's recommendations concerning internal control procedures, inspections of such procedures, and enforcement action for deficient procedures.

4. Using the new employee supplements to railroad accident reports as a new tool for checking the accuracy of reports.

Section 24 of the Rail Safety Improvement Act of 1988 ("RSIA") provides that if, in reporting an accident to FRA, a railroad assigns human error as a cause of the accident, the report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident. FRA anticipates issuing a final rule implementing that requirement this fall. We hope that requirement will assist us in improving the quality of accident reporting.

5. Watching closely for any circumstances under which FRA should exercise its new enforcement authority over individuals, i.e., a willful violation of FRA's requirements to report accurately and on time.

The RSIA granted FRA enforcement authority over individuals who willfully violate or cause the violation of FRA's rail safety rules. It is the responsibility of railroad reporting officers to decide which events are required to be reported to FRA. These officers must be completely familiar with the requirements contained in the regulation and reporting manual. We are sending letters to all of the railroads' accident/incident reporting officers instructing them to review their railroads' reporting procedures to ensure that they are adequate to provide timely and accurate accident/incident information. We will not hesitate to take action against any individual railroad employee who willfully violates the accident/incident reporting requirements.

6. Initiating a rail safety inquiry proceeding by November 1, 1989, on ways to improve the accuracy of FRA's other reporting systems.

FRA is concerned that issues similar to those raised by the GAO about accident reporting may extend to other required reports to FRA from railroads. A safety inquiry is an appropriate means of exploring this issue systematically, as opposed to our ongoing day-to-day, record-by-record inspections. A safety inquiry also provides a good forum for investigating ways to improve these reporting systems.

FRA Comments on the GAO Report

Let me briefly address accidents and injuries in turn. GAO found that of 532 train accident files it examined, it believed that 52 should have been reported to FRA. However, we note that 41 of those 52 accidents resulted in property damage of less than $15,500--"fender benders" in the railroad industry for which slightly incorrect damage estimates can put an accident above or below the reporting threshold. In addition, GAO states that in 171 train accidents, property damages were underreported by $3.5 million, or 52 percent. However, $2.7 million of that $3.5 million is attributable to only two accidents. The understatement of damages for the remaining 169 accidents amounted to 17.8 percent, still cause for further inquiry. FRA is, of course, investigating the circumstances of the other two accidents, and is awaiting information from GAO that would clearly identify one of those two. Moreover, FRA would appreciate receiving specifics on each of the 52 accidents that GAO concluded should have been reported so that FRA can determine the precise nature and causes for the underreporting. Part of the problem appears to be that, with respect to major accidents, damage estimates tend to increase as time goes by, but any reporting system needs a cut-off date by which information can be considered final.

With respect to injuries, the vast majority reported yearly are unrelated to FRA's primary area of safety responsibility, the movement of on-track equipment. That is, most injuries reported to FRA implicate occupational safety and health issues that are not unique to the railroad industry. Accordingly, FRA shares its employee injury data with OSHA every year, as that agency has certain specific regulations designed to lessen the frequency of these sorts of injuries that occur in all industries.

One of FRA's major interests is employee injuries that result from collisions and derailments and from other factors related directly to the railroad operating environment, which is the central focus of FRA's regulatory program. In its report, however, GAO makes no distinction between employee injuries arising from the movement of on-track equipment (about 15 percent) and the great majority of injuries resulting from occupational hazards not directly related to train movements such as automobile accidents, slips and falls, and assaults (about 85 percent). This is not to say that FRA is unconcerned with the injuries that are not related to the movement of on-track equipment. For example, FRA places considerable emphasis on a railroad's overall employee safety program when conducting a systemwide assessment. Nevertheless, the failure to distinguish between these major categories of injuries may lead to incorrect conclusions about how FRA is performing in its major area of safety responsibility--train operations--and about the quality of the data base in that area.

GAO concluded that, of the 521 unreported injuries it reviewed, 61 should have been reported. FRA would like the opportunity to review the data on those 61 injuries itself in order to determine precisely what type of injuries went unreported and why. We would appreciate your asking GAO to provide us with those data.

With respect to lost workdays, however, GAO seems to have misunderstood the FRA reporting system. GAO used data drawn from the railroads' monthly injury reports to FRA, which provide only the "best estimate" of the railroad reporting officers of the days that will be lost by those injured in a given month. In addition to these monthly estimates, FRA requires that the railroads provide an annual report of the actual days lost during the past year. Thus, GAO's approach may have caused it to confuse estimated data with actual data.

GAO concluded that a few railroads in its study are underestimating the number of workdays lost due to injuries, finding "actual" lost days of 8,023 for the 156 injuries it reviewed, compared to the 2,176 days reported. This is an extraordinary result. Since 63 percent of injuries in 1987 resulted in lost work days, GAO somehow randomly found about 98 injuries that averaged 82 lost days each. That many days off would indicate an extremely serious injury, not an average, randomly selected one. The 2,176 days actually reported to FRA yield an average days absent of 22 days, well within the Department of Labor averages from industry to industry of 16 to 31 days (mining being the most dangerous) and virtually the same as the DOL average of 21 days for transportation and public utilities. We are uncertain of the quality of the numbers GAO gathered during its survey of these few railroads.

As GAO notes, FRA depends on its data base when calculating costs and benefits of proposed safety rules. Fortunately, those areas in which GAO found significant margins of error (e.g., lost workdays, which provide a very rough measure of injury severity) are not fundamental to the safety issues FRA addresses in its safety regulations. Far more critical are the numbers and types of accidents and injuries that occur in the railroad operating environment. Nevertheless, as discussed above, the regulatory action FRA plans to take to facilitate accurate updating of reported information should improve the accuracy of the lost workday information as well as the information that is more important to FRA.

Conclusion

GAO has pointed out important areas in need of improvement and FRA plans to make the improvements it believes necessary.

Nevertheless, neither GAO's findings nor FRA's shared concerns about the need for improvement belies the remarkable improvement in rail safety between 1978 and 1988:

- o 73 percent decline in train accidents
- o 68 percent decline in hazardous material releases
- o 65 percent decline in on-duty employee injuries
- o 63 percent decline in on-duty employee fatalities

Even normalized for the amount of railroad traffic, this trend holds over the past eleven years: train accidents per million train miles have decreased from 13.0 to 5.01.

The GAO report findings are consistent with this record of achievement and, indeed, may understate it. Neither FRA nor GAO has any evidence that the rates of nonreporting over the past decade have varied during those years. Like all large statistical data bases reflecting the complexities of daily industrial events and built from the reports of differing sources, the FRA railroad accident data base inescapably reflects some margin of error.

Although the absolute numbers are not, and cannot be, perfect, the relentless decline in the major indicators of accidents, injuries, and fatalities over the past decade cannot be denied. And if, as GAO believes, accident reporting throughout the railroad industry has been improving in recent years, it follows necessarily that this trend of improvement in rail safety is, in fact, understated.

As significant as this record is, now is the time to consolidate our gains and to make those improvements to FRA's rail safety program that will, over time, contribute to an even safer rail industry. Accurate data is the cornerstone of any such program, especially since the easiest and largest improvements have now been made; further incremental improvement will be harder won and less dramatic. I appreciate your interest in this important issue and look forward to working with you to use the insights provided by GAO to improve this vital aspect of FRA's rail safety program.

Sincerely yours,

Gil Carmichael

Gil Carmichael
Administrator

ADVANCED TRAIN CONTROL SYSTEMS

Mr. **Coughlin**. Can you update us on the status of both ground-based and satellite-based advanced train control systems?

Mr. **Carmichael**. The industry is moving quickly in several technologies in this area. Joe.

Mr. **Walsh**. Mr. Coughlin, the freight railroads have done an excellent job. They are prepared and will have their systems in place on the date required. We do have some problems with the commuter railroads. The——

Mr. **Carmichael**. You're on the wrong one. This is the satellite-based now.

Mr. **Walsh**. ATCS is moving along very well. The design of the system is there. The implementation of it I think is going to be slow because it probably is going to be expensive in industry to justify the installation at the present time. There has been no Class I railroad that has picked up the ball, except possibly up in the Canadian railroads and of course the same system is being sold throughout the world at the present time and maybe you'll see it in some other countries.

Mr. **Carmichael**. I would just make quick comment on it, Mr. Coughlin, on satellites and computer dispatching and the whole process. The industry realizes it's a good way to speed up the utilization of their equipment and it makes money for them. I think you'll see it come on pretty fast, but as they kind of settle in on which technology is the lowest cost and most effective.

Mr. **Coughlin**. Please expand on your answer for the record, and provide an implementation plan and schedule for the U.S.-Canadian ATCS effort.

[The information follows:]

On January 30, 1990 the Canadian National started the first Advance Train Control System (ATCS) operating communications system in North America at one of two test beds over 100 miles of railroad main and secondary track near Toronto, Canada. This is part of an industrywide effort to demonstrate and prove ATCS concepts and system reliability.

A prototype ATCS is being installed on CN's Hagersville Subdivision to put hardware and integrated systems through their paces. By 1991, the railway will have a first operational ATCS installation on 187 miles of that line. This year, remote controlled power switches will be installed over the ATCS portion of this line. Computers and data radio equipment will be installed on 54 locomotives. Eight radio base stations will be installed, with the system scheduled to become operational in early 1991.

The Burlington Northern together with Rockwell International has been developing an ATCS called ARES, the Advanced Railroad Electronic System. The BN has equipped 17 locomotives with ARES hardware for an operational demonstration on the Mesabe Iron Range in northern Minnesota. ARES uses the Global Positioning System (GPS) being developed and used by the U.S. Department of Defense for detecting location and speed. Two data link and GPS packages have been placed on hy-rail vehicles, and 40 wayside interface units have been installed to control and monitor switches and pass on data from wayside detection equipment.

Mr. **Coughlin**. How many U.S. and Canadian railroads have plans to use such systems?

[The information follows:]

Presently ATCS has been tested in the U.S. on the Burlington Northern, Union Pacific, Norfolk Southern and CSX railroads and on the Canadian National in Canada.

AUSTRALIAN ATCS

Mr. **Coughlin**. What is the status of the Australian ATCS, and how does it compare with our programs?

Mr. **Walsh**. On the Australian ATCS, as I understand it, the Association of American Railroads is really the leading agency working in the design on ATCS and they have gone to Australia to sell the system, one of the systems, to the Australian railroad. Exactly what the entire design will be, I am not certain, but it should be something that we have developed here in this country.

ATC ON THE NORTHEAST CORRIDOR

Mr. **Coughlin**. The Rail Safety Improvement Act requires the use of ATCS on Northeast Corridor tracks by April 1, 1990. Are you still on track to meet that date? If not, when will that be completed?

Mr. **Carmichael**. This is a little bit of confusion. ATCS and ATC—there's a difference—automatic train control, ATC, that's what we're talking about in the Northeast Corridor. SEPTA, for example, is putting in ATC on their trains. They are not doing it exactly the way we want it done, and they've asked for an extension to have part of it in by June, I think it is—July 1.

And so they're not on track in the sense that they indicate instead of April they'll have it done by July. If we give them an extension and they do it by July, they still may not be in compliance with what we want or recommended.

Mr. **Coughlin**. When you do you think the whole thing will be completed?

Mr. **Walsh**. All railroads—all freight railroads, commuter railroads and Amtrak—will have this system in place by July 1, Mr. Coughlin, except SEPTA. SEPTA may have some version of ATC but there are some problems where we have had a series of weekly meetings with SEPTA management to iron out the differences of opinion.

Mr. **Coughlin**. What are the problems with SEPTA?

Mr. **Walsh**. I thought maybe we would get your attention when we mentioned SEPTA. In the design, originally they were working with one supplier and everything was going along very well. They went to competitive bidding, another supplier was the low bidder, they came in with a new system design, and as a result they have fallen behind.

We require things like a light when the system is activated so that——

Mr. **Carmichael**. That's a light outside.

Mr. **Walsh**. A light outside the cab, the locomotive, so anybody could observe that the system is operating from any position. That light will not be installed.

We require a full service brake application when the system is operative, they want to use an emergency application which we are concerned about, that if you go into an emergency you could throw your passengers on the floor or something.

Things like that have been, I think, cause for the delay and cause for the system that they are implementing to be questionable as to whether it meets our requirements. And I think we may come down to some disagreement somewhere between now and July.

Mr. **Carmichael**. Specifically, even though it doesn't meet all our regulations, it will be ATC.

Mr. **Coughlin**. The other systems will have it?

Mr. **Walsh**. All of the other systems will meet all of our requirements.

Mr. **Coughlin**. Are suppliers to the New Jersey Transit the same as the suppliers to SEPTA or are they different?

Mr. **Walsh**. The supplier to SEPTA is a leading signal supplier, and I can't blame it on the supplier as much as I can say the attitude of SEPTA management, where the required retrofit would probably be more expensive and they don't want to go into that more expensive retrofit. They feel that what they are proposing is sufficient.

NTSB PERCEPTION OF FRA AND ATCS

Mr. **Coughlin**. According to the NTSB, the FRA is not in favor of positive control of trains. Is that accurate? If so, what is the basis for FRA's position? How active a role are you taking in the development and installation of ATCS systems?

Mr. **Walsh**. I don't know why the NTSB has that assumption, because we have had an active role in ATCS from the very beginning, Mr. Coughlin, and we have had as many as 18 or 20 of our technical experts at any of their large meetings and participated in them and really made many recommendations that have been accepted by the ATCS committee.

I feel that we are playing a very active and leading role in the design and the implementation of ATCS.

TRAIN WHISTLE BLOWING PROBLEMS

Mr. **Lehman**. Mr. Coughlin, can I ask one question before we leave safety? In the area I represent, the railroad track was there 50 or more years ago, and in the last 25 or 30 years the population density has increased, especially highrises for retired people. And there's been this movement to stop whistle blowing at night, especially. And this has been affecting some areas. Has there been any correlation between those areas that have regulations about whistle blowing after dark and the number of crossing accidents? Is there a problem there that we should know about?

Mr. **Walsh**. We don't have any data to support that, Mr. Chairman, but we are very concerned that in South Florida, down in your Palm Beach, your Boca Raton area, where the communities have taken action to restrict the sounding of a whistle in the evening hours, that's another alerting device that could be used, and we do not have data at the present time but we are very concerned that that could be part of the increasing cost.

Mr. **Lehman**. Is that a Southeast Florida problem? No place else?

Mr. **Walsh**. Almost exclusively in Southeast Florida is where the biggest problem is. A few other communities have it, but very few others—we've concentrated down there almost all of our complaints.

Mr. LEHMAN. The others have airport noise, we have trains. Thank you, Mr. Coughlin.

TANK CAR REPORT

Mr. COUGHLIN. This January, the FRA/RSPA joint report on federal oversight of the design, construction, and repair of tank cars was completed. You found that the delegation of responsibilities to the Tank Car Committee of the American Association of Railroads needed significant improvement. Would you summarize the problems you found?

Mr. CARMICHAEL. Their recordkeeping was one of the problems, when they approved a design. I'll talk in layman's terms about my understanding of this Tank Car Committee. They would approve something but didn't keep good records of when they did it. Their general housekeeping, general record keeping was poor. What was the other problem in the committee report besides the record keeping?

Mr. WALSH. The record keeping and the day-to-day involvement of either the Research and Special Programs Administration or the Federal Railroad Administration, was a concern of ours. Most of the sloppiness was in retrofits or work done on existing tank cars, not on the design of new tank cars.

We have found by identifying these concerns with the Tank Car Committee that we have made progress because the review and the report is a joint report between the two modal administrations and we are working to come to an agreement on the report and the action; the recommendations that should be taken by the agency. And we should be coming forth with those very shortly.

Mr. CARMICHAEL. Just to give you a quick opinion of mine, the delegation of authority from the Department of Transportation to this Tank Car Committee took place a long time ago. Their approval of design, tank car design, and their failure to follow up on tank car design after they had done it or when they had authorized a manufacturer to do it, the failure to check and see if the standards were being maintained was one of the sloppiness things that occurred there.

It also reminded us at RSPA and FRA that when we delegate authority from the government to a private group, that we can't forget the responsibility of oversight and observation. And we made a real strong point in a joint letter that the AAR Tank Car Committee could continue, but it had to clean up these areas of sloppiness and that we had to improve our oversight and our responsibilities. So it's been a very good lesson to both agencies, and I hope to the AAR, the Tank Car Committee.

Mr. LEHMAN. Is this so-called sloppiness—would you call it serious?

Mr. CARMICHAEL. We didn't find that there was a deliberateness, that it was again as over time a casualness developed and a lack of record keeping. And that was a slap on our part, too, because we weren't watching it. And so it was a very good study, as near as I can tell, and it's made us all aware that we weren't doing a good job.

Mr. WALSH. I think it went one step further.

Mr. CARMICHAEL. The idea was good, but we weren't supervising.

Mr. WALSH. One step further, too, Mr. Chairman—we were looking at the Tank Car Committee and the shops that do the work and the certification of those shops required more attention, which we have changed our programs now that our inspectors go into those shops to observe the type of work being done any repairs or retrofits of tank cars.

Mr. LEHMAN. Mr. Walsh, going back to the whistle blower—if you have any data on that, how it has changed the hazards at crossings, you don't have to put it in the record, just give me some documentation on that.

AAR RESPONSE TO TANK CAR REPORT

Mr. LEHMAN. AAR was expected to respond to this report by the end of March of this year. Do you have any preliminary feedback from them?

Mr. CARMICHAEL. I haven't received any myself. Has anybody else?

Mr. WALSH. No, sir.

Mr. LEHMAN. The report recommends that the improvements be made "by agreement with AAR and/or regulation, as necessary." This implies that if AAR doesn't agree with your findings, you will implement your recommendations anyway. What role should an industry organization such as AAR have in negotiating with you over the resolution of safety concerns? Does RSPA agree?

[The information follows:]

The report states that the "recommendations should be implemented now, whether through regulatory action, a written agreement between DOT and the Committee, or a combination of the two." As a policy advisor, the Committee gives the department access to a level of experience and expertise that does not exist within the Department, and could not easily be duplicated in a governmental agency. We find the concept of utilizing the Committee as an extension of the regulatory agency to be sound; what is not sound is the manner in which the delegation was being conducted. Accodingly, the report recommends ways to improve implementation of the delegated authority to the Committee. If improvements are not made, or if they prove insufficient, the report leaves open the door to other approaches to ensure that tank cars are built, repaired, and maintained in accordance with the Department's regulations.

The relationship between the Department and the Committee can best be described as a relationship between a policymaker and a counselor. The Committee brings the Department technical expertise. It reviews the effectiveness of current standards and forwards recommendations for change. Proposed amendments to the tank car specifications originating outside of the Committee must be referred to the Committee for review and comment prior to Departmental action. In all instances, however, final policy judgments lie with the Department.

The RSPA agrees with the concepts of delegation.

Mr. LEHMAN. What if AAR resists, or decides that the delegation is no longer worth the trouble? What would your response be?

Mr. CARMICHAEL. I don't think that's going to happen, but if it happened, we would have to get in the business. It would be our job.

Mr. WALSH. I think it would have a tremendous adverse effect on the design, construction, retrofit and maintenance of tank cars if this delegation was given up by the Association of American Railroads and put back on the Department of Transportation. Whether it be put back on Research and Special Programs Administration or the FRA, I'm not certain. But it would have an adverse effect.

Mr. CARMICHAEL. Presently, it is very cost effective.

TANK CAR SAFETY ENFORCEMENT

Mr. LEHMAN. Which is the lead agency for follow-up and enforcement of the report's recommendations—FRA or RSPA?

[The information follows:]

The FRA is the lead agency for follow-up and enforcement of the report's recommendations [49 CFR 1.49(s)].

REASONABLE CAUSE DRUG TESTING PROGRAMS

Mr. LEHMAN. How many of the Class II and Class III railroads have implemented "reasonable cause" drug programs? Should such programs be mandated?

[The information follows:]

FRA has on file training programs from 13 Class II and Class III railroads that pertain to reasonable cause testing. (Two of these are commuter railroads.) Data from reports for calendar year 1988 indicated that 7 of these railroads conducted reasonable cause urine or breath tests. (One was a commuter railroad.)

Class II and III freight railroads together employ only about 10 percent of rail employees. FRA expects that these smaller operators may make more intensive use of reasonable cause testing after they have implemented random drug testing.

RANDOM DRUG TESTING

Mr. LEHMAN. Last year, you told us that the FRA had not yet reviewed the drug testing programs of Class I railroads to determine their effectiveness or variations between railroad programs. Have you done so lately, and if you haven't, do you plan to do so?

Mr. CARMICHAEL. This is in the random testing? I can make a pretty interesting observation on the implementation. We started in January with a random drug testing on railroads. And a sidebar on the thing was the people that can volunteer to go into employee assistance programs has just increased tremendously.

So the advent of the random testing on the Class I has caused an awful lot of people to take advantage of the legal out in employee assistance programs. So you can already see the deterrent effect of this random testing.

Mr. LEHMAN. Have you developed guidelines accepted by the major railroads for the sanctioning of employees who refuse to take drug tests? Have you?

Mr. CARMICHAEL. From my understanding of the guidelines, if they refuse to take a test, that's nine months suspension.

Mr. LEHMAN. You have developed guidelines.

Mr. CARMICHAEL. Yes, sir.

[The information follows:]

FRA regulations require that employees that refuse post-accident or random testing under the FRA rules be disqualified from safety-sensitive duties for 9 months. Employers are free to take more stringent action with respect to the insubordination associated with such refusal, so that their corporate policies with respect to such matters can be consistently applied. Because reasonable cause testing is an authority provided to the railroads and it is not desirable to implicate the Federal government in each responsive action taken with respect to attempted exercise of this authority, we have not extended this disqualification period to reasonable cause testing. However, its presence in the other regulatory provisions provides a ready "guideline" with respect to the minimum action appropriate in other situations.

FRA does not regulate labor relations in the railroad industry and accordingly takes no position with respect to drug tests conducted exclusively under company policy, such as those conducted in connection with periodic physical examinations. Our only expectation is that the employer will exercise due diligence to prevent violations of the alcohol/drug prohibitions.

NTSB REPORT ON DRUG AND ALCOHOL ABUSE

Mr. LEHMAN. What is the status of NTSB recommendations to FRA on the June 1988 report entitled "Alcohol/Drug-Abuse and Its Impact on Railroad Safety"?

[The information follows:]

NTSB issued 11 recommendations in connection with the 1988 report. FRA responded on March 10, 1989. At this time NTSB has not closed any of those recommendations—all remain open.

FRA has recently completed a major rewrite of its regulations to integrate the random drug testing concepts and the prior rule, which was upheld by the Supreme Court in a decision announced on the day of last year's appropriations hearing. In this most recent rulemaking, we endeavored to review as many outstanding items as we could. For instance, we implemented an NTSB recommendation to require alcohol and drug testing after any passenger train accident with a reportable personal injury.

In general, however, significant distance continues to separate the Board and FRA on tactics, so the Board is holding most of these items in open status.

The 1988 recommendations were to a large extent alternatives to random drug testing. We decided that random drug testing was required to meet the criterion of effectiveness; and so we have proceeded with that approach.

The 1988 recommendations generally supported major expansion of testing authorities related to accidents, unsafe practices and poor job performance. Reasonable cause testing would be mandated for both drugs and alcohol, rather than being authorized as is presently the case. FRA was urged to adopt medical standards and issue medical certificates; medical examinations would then be required to include alcohol and drug screens (as about half of the major carriers do already). Training of rank-and-file employees would be mandated. Railroads failing to collect post-accident specimens within 4 hours would be required to file a report; and all safety-sensitive employees (term not defined) would be subject to post-accident testing, not just hours of service employees.

In FRA's view, some of these recommendations were badly distorted by the Board's rejection of the random testing option. The Board proposed, for instance, that FRA establish medical qualifications for railroad employees without providing any factual foundation for the proposal, even though the Board knows very well that a massive commitment of agency resources would be required to implement such a program, and even though major railroads have had their own medical qualification programs in place for almost a century. The Board's apparent objective was to create an occasion for periodic drug testing—i.e., the physical examination. This recommendation ignores the fact that about half the major railroads already conduct drug screens with their physical examinations. It also ignores the fact that drug testing on a pre-announced basis is the least effective means of deterring drug use, since most users can and will abstain for the short period necessary to avoid detection.

In other respects, we simply believe that the recommended regulatory actions are not practical. For instance, it is not practical to issue regulations allowing reasonable cause drug testing based on "work habits" or "work attendance." In 1985, FRA issued a Field Manual that describes that indicators which supervisors should observe and that may provide the basis for a referral to the employee assistance program. However, it is not possible to delegate a Federal search function to a railroad supervisor that permits initiation of the search based on vague and highly discretionary criteria such as "work habits."

STATUS OF NTSB RECOMMENDATIONS TO AAR

Mr. LEHMAN. Please also provide for the record AAR data on the status of recommendations made to AAR in that report on page 59.

[The information follows:]

The most recent response from AAR membership was received at the NTSB March 1990. These responses are being reviewed by NTSB board members.

At the present time, the NTSB has not responded back to the AAR. Since this is an AAR/NTSB matter, the most current information can be obtained from those groups direct.

DRUG TESTING OF FRA EMPLOYEES

Mr. LEHMAN. Do the results from your random drug testing show any increase in the use of drugs by FRA employees, compared to last year?

Mr. CARMICHAEL. I think we did about 137 tests in fiscal year 1989, random tests, and no positives. Is that correct?

Mr. WALSH. Three hundred seventy-one, since we began testing in September 1987.

Mr. CARMICHAEL. Three hundred seventy-one and no positives. This included 78 pre-employment tests.

Mr. LEHMAN. You can't improve, can you?

Mr. WALSH. That's pretty good.

SAFETY INSPECTORS ON BOARD

Mr. LEHMAN. Let's turn now to the FRA's enforcement program. Please update us on your current number of field inspectors, and the requested level for fiscal year 1991.

Mr. CARMICHAEL. I have got a quick answer to it, but if I could just make one comment. FRA's inspectors are senior railroad people in most cases, so the retirement and attrition is a hard thing to get a handle on. We are authorized 361 inspectors and we currently have—and it's interesting, on my notes here they've crossed it out from 321 to 326 on board today. One of my people told me yesterday we hired three and lost two, so we gained one or something like this. So 326 is where we are.

Office of Personnel and Office of Safety feel like we will be up to our 361 by June of this year. We are very aggressive, and I am keeping a constant pressure on them to keep hiring and get our staff up to our authorized level.

SAFETY INSPECTORS BY REGION

Mr. LEHMAN. For the record, please provide a breakdown showing FTE staff, position vacancies, and travel funds by region, for the inspection/enforcement function for fiscal years 1989, 1990 and 1991.

[The information follows:]

Safety Inspectors by Region

Region	FY 1989			FY 1990		FY 1991	
	Authorized Inspector Positions	EOY Staff	Travel	Projected EOY Inspectors	Travel	Projected EOY Inspectors	Travel
Cambridge	35	35	235,000	39	300,000	39	425,000
Philadelphia	52	50	375,000	57	473,500	57	583,000
Atlanta	50	42	284,000	55	443,000	55	560,000
Chicago	49	42	370,000	54	421,000	54	520,000
Fort Worth	46	47	380,000	50	481,000	50	608,000
Kansas City	34	36	261,000	38	385,000	50[1]	470,000
San Francisco	32	24	213,000	35	281,000	35	335,000
Portland	29	34	278,000	33	305,500	33	375,000
	327	310	2,396,000	361	3,090,000	373	3,876,000

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[1] Trainee Inspectors (12) located in Kansas City

Mr. LEHMAN. Please also insert for the record FRA's November 30, 1989, letter to the House Appropriations Committee which outlines the distribution of the 34 new inspector positions added in fiscal year 1990. Please also provide the revisions called for in the letter if such revisions are available at this time.

[The information follows:]

U.S. Department
of Transportation
**Federal Railroad
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 30 1989

The Honorable William E. Lehman
Chairman, Subcommittee on
  Transportation
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Senate Report 101-121, accompanying the Department of Transportation and Related Agencies Appropriations Act for 1990, directed the Federal Railroad Administration to provide a proposed distribution of the new inspector positions requested and approved for FY 1990 to the Committee for approval prior to December 1, 1989.

As stated in testimony before the House Subcommittee on Transportation, the 34 new inspector positions will be GS-12's and are planned to be distributed among the regions as follows:

Boston	5
Philadelphia	2
Atlanta	4
Chicago	8
Fort Worth	3
San Francisco	6
Portland	6

The new positions will be distributed among the disciplines as follows:

Motive power and equipment	5
Signal and train control	6
Operating practices	15
Hazardous materials	8

The determination as to which region the positions by discipline will be distributed to will be made as soon as the FRA staffing model can be revised to incorporate the geographical locations of the work elements of the new regulations. When this has been accomplished, a revised report will be provided to you.

I hope that this information addresses your concerns. If I may be of further assistance, please let me know.

Sincerely,

/s/

Gilbert E. Carmichael
Administrator

IDENTICAL LETTER TO:
The Honorable Robert C. Byrd

cc: The Honorable Jamie E. Whitten
The Honorable Silvio O. Conte
The Honorable Lawrence Coughlin

Deciding how inspectors should be allocated by discipline was made with the aid of the existing Staffing Allocation Model (SAM).

Planned adjustments to SAM are extensive and will not be available in the near future. FRA has been developing the Quality Improvement Program (QIP) and the Regional Inspection Points (RIP) program since the introduction of SAM in June of 1987. These programs are expected to improve the quality of SAM. QIP is a revised Productivity Program that has been completely implemented in all eight regions as of February 1990. It counts what was produced and how long it took to produce each task assigned. RIP is currently in draft form but should be introduced later this year. It will tell us how much railroad activity exists in an inspector's territory. Having information on how much time it takes to complete each task and how much railroad activity is in each region, FRA will be better able to quantify how its inspectors should be distributed nationwide using SAM.

Discipline mix using SAM is currently based on estimates of how much time is spent by each discipline in major task categories and work produced. This approach to allocating inspectors by discipline is acceptable if you do not have the type of data we are presently developing from QIP and RIP.

To allocate 361 inspectors nationwide, first 16 positions are allocated for management duties before the remaining 345 inspector positions are distributed by the model as follows:

Regions	Inspectors
Boston	37
Philadelphia	55
Atlanta	53
Chicago	52
Fort Worth	48
Kansas City	36
San Francisco	33
Portland	31
	345

Among the 361 total inspectors, Congress authorized 34 new inspector positions for FY 1990. The model recommends the distribution below for the 34 new positions. It is important to note that management's hiring decisions must include factors that the model cannot accommodate because of unavailable data. By not accounting for model limitations when making allocation decisions, the organization will be driven by models instead of effective management planning.

Regions	Total	MP&E	OP	Track	S&TC	HM
Boston	5	1	2	-	1	1
Philadelphia	2	-	2	-	-	-
Atlanta	4	1	2	-	1	-
Chicago	8	-	3	-	2	3
Fort Worth	3	1	1	-	-	1
Kansas City	-	-	-	-	-	-
San Francisco	6	1	3	-	1	1
Portland	6	1	2	-	1	2
Totals	34	5	15	-	6	8

STATE INSPECTION PROGRAMS

Mr. **LEHMAN**. Federal financial support for the state railroad inspection programs ended in fiscal year 1989. What is the status of state participation—have any states terminated their programs because of the lack of Federal funding?

[The information follows:]

Despite reductions in Federal funding, essentially all the participating states have stayed in the program. Since FY 1988 to the present, Louisiana, South Carolina and Arkansas left the program, Maine entered the program and South Carolina may reenter the program in FY 1990. Currently, 30 states are participating in this non-federally funded program with 113 inspectors.

Mr. **LEHMAN**. Last year, you advised us that there were a total of 107 inspectors in 32 states. What is the total today?

[The information follows:]

Currently, there are 113 inspectors in 30 states participating in the non-federally funded program.

Mr. **LEHMAN**. Please provide for the record an update of the state-by-state inspector data found on page 155 of last year's hearing.

[The information follows:]

FY 1990 Railroad Safety State Participation Program

Number of State Safety Inspectors as of March 16, 1990

State	Track	Motive Power & Equipment	Operating Practices	Signal & Train Control	FY 90 Total	FY 90 Application Received
Alabama	2	2			4	Yes
Arizona	2	2	1		5	Yes
California	2	1	2		5	Yes
Connecticut	1				1	Yes
Florida	3	2	~~1~~		6	Yes
Illinois	4				4	Yes
Iowa	3				3	Yes
Kansas	1				1	Yes
Maine	2	1			3	Yes
Maryland	1	1	1	1	4	Yes
Michigan	3				3	Yes
Minnesota	2				2	Yes
Missouri	3				3	Yes
Montana	1				1	Yes
Nebraska	1	1			2	Yes
Nevada	1	1			2	Yes
New Hampshire	2	1			3	Yes
New Jersey	2				2	Yes
New York	3	3			6	Yes
North Carolina	2	1			3	Yes
Ohio	3	4	1		8	Yes
Oklahoma	1				1	Yes
Oregon	2	2			4	Yes
Pennsylvania	3	3	1		7	Yes
South Carolina					0	*
Tennessee	2	2	2	1	7	Yes
Texas	4	3	3	1	11	Yes
Utah	1	1			2	Yes
Virginia	2				2	Yes
Washington	2				2	Yes
West Virginia	2	3	1		6	Yes
Total	63	34	13	3	113	

* Anticipated, but yet to receive expected application.

NOTES

1. Totals includes 10 trainees: 5 track, 1 motive power and equipment, 3 operating practices, and 1 signal and train control.

2. Congress did not appropriate any funds for this Grants-In-Aid program in FY 1990, for the second year in a row.

3. In FY 1989, 32 states participated with 112 inspectors (64 track, 35 motive power and equipment, 11 operating practices and 2 signal and train control.

BACKLOG OF SAFETY VIOLATION REPORTS

Mr. **Lehman**. The Committee is advised that you currently have a backlog of over 16,000 inspector reports alleging safety violations which are awaiting review by FRA headquarters staff. Is this accurate?

[The information follows:]

Approximately, yes. But these reports are constantly moving. Violation reports are received every day and on a first-in-first-out basis reports are transmitted to railroads and shippers every day. The backlog developed over a period of years when FRA's legal resources did not keep pace with the demand for those resources.

PROCESSING OF SAFETY VIOLATIONS AND PENALTIES ASSESSED

Mr. **Lehman**. What is the average number of months between the filing of an inspector report and the issuance of an initial penalty assessment?

Mr. **Carmichael**. The man that catches the devil for this is Mr. Lindsey, and I'll let him answer it.

Mr. **Lindsey**. I have no average for you, Mr. Chairman, but they are all transmitted now within 24 months of the time they are received in my office. With the resources that we are requesting this year, plus resources that Mr. Carmichael is transferring into my office, we expect to bring that down below 18 months next year.

Mr. **Lehman**. And this 120-day goal for this last year that you talked about—that's not too close yet, is it?

Mr. **Lindsey**. Not too close. That's still the goal and it is an issue with the resources that we have.

Mr. **Lehman**. What is the current dollar value of civil penalties on outstanding claim letters? How does this compare to the past couple of years? Are you falling behind or are you gaining?

Mr. **Lindsey**. We are definitely gaining. The current dollar value outstanding is slightly over $15 million.

Mr. **Lehman**. Does the Office of Chief Counsel currently have sufficient resources to process violations in a timely manner?

[The information follows:]

Having hired the four attorneys Congress authorized last year and the secretary authorized this year and made major improvements to the process by which violation reports are handled, we have enough legal staff to process violation reports at the pace they are now coming in. The Office of Chief Counsel does not have enough staff, however, both to eliminate the backlog we now have and concurrently to handle the additional work generated by the new safety inspectors being added and new responsibilities, such as individual civil penalties, disqualifications, and appeals under the proposed locomotive operator rule, added by the RSIA rulemakings.

I did not understand the workload in time to include a request for enough resources in the budget request before this Committee. Now that I do understand the workload, I have reassigned one attorney and one secretary from other divisions of the Chief Counsel's office and one position and two FTE's from elsewhere in FRA to the Safety Division of the Office of Chief Counsel. With the addition of those positions, we can reduce the backlog significantly by the end of 1991.

I have also directed the Chief Counsel to devise staffing standards that objectively relate the size of the legal staff to the size of the safety inspector force. This will give FRA and everyone reviewing its budget a better tool with which to evaluate the need for additional legal resources when the safety inspector force is increased. Mr. Durbin is correct in observing that backlogs become inevitable if legal resources are not increased when the workload increases. That is how the present backlog arose. With this Committee's help and the staffing standards in hand, I believe FRA can eliminate this backlog and avoid recreating the circumstances that produced it.

Mr. LEHMAN. If these collections were made faster, the government would get more interest revenues on the money collected. Wouldn't additional attorneys, paralegals or labor-saving equipment pay for themselves by speeding up collections?

Mr. LINDSEY. Yes, sir, they would.

CHIEF COUNSEL'S STAFFING NEEDS

Mr. LEHMAN. Well, let's do it. For fiscal year 1991, did the Federal Railroad Administration request for staff differ from the level in the Congressional budget submission especially for the Office of Chief Counsel? If so, how many were requested?

[The information follows:]

Yes. My request to the Department was for an additional two attorney positions and an additional two support positions for the Safety Division. The Department's passback assumed that the staffing increases for the Chief Counsel's office would be offset by decreases in other program areas, such as Amtrak, NECIP and LRSA, that were proposed to be phased-down or terminated.

I notified the Office of the Secretary that I would further review my legal workload and staffing situation and might have to request a budget amendment before the FY 1991 request was sent to the Congress. While I concluded from my review that additional staffing was needed, the opportunity for proposing any budget amendment had closed and any proposed supplemental had to be deficit neutral and for a dire emergency.

In order to help address our immediate workload demands, I have reallocated available positions and FTEs to the Chief Counsel's office this fiscal year.

SAFETY VIOLATIONS—ASSESSMENTS AND SETTLEMENTS

Mr. LEHMAN. In cases closed during the past year, what percentage of FRA's initial assessment was agreed to in final settlement? And why wasn't the percentage better?

[The information follows:]

As legal claims of liability on the part of railroads and shippers, FRA's enforcement cases must be handled on a case-by-case basis. The amount ultimately collected on a particular case varies widely depending on a host of circumstances, for example, from zero percent, where our evidence of a violation is effectively rebutted, to 100 percent, where the violation is so egregious that FRA insists on either full payment or litigation. In cases between those extremes, our negotiations are intended to result in the payment of the highest penalty warranted by all of the considerations relevant to a case. Overall in fiscal year 1989, of those claims ultimately pursued (i.e., considered legally sufficient to meet FRA's burden of proof if litigated), 56 percent of the initial penalties assessed was collected. More was not collected because in the agency's judgment in each case, the purpose of deterrence and promotion of compliance was adequately served by the particular amount collected. In many cases we hold firm. In others the risks of litigation or the disproportionate resources that would be required to litigate certain claims (given the other enforcement work that would necessarily be left undone) require that we compromise—as the statutes we enforce expressly authorize—in order to make the best use of the agency's resources in fulfilling our overall safety mission. We attempt to relate these amounts collected to the substantive safety issues at stake by weighing such factors as:

The violation's relative severity;

Whether the violation resulted in, or could have resulted in, an accident or casualties;

Culpability of the respondent;

Compliance history of the respondent;

Remedial measures taken;

Other aggravating or mitigating factors;

Strength of our case and litigation risks;

Amount of resources that would be needed to pursue the case through litigation; and

Whether the deterrent purpose of the penalty would be more quickly served by reaching a compromise now.

Mr. LEHMAN. For the record include the collection/assessment ratio from the past five fiscal years by category of violation (HAZMAT, rail safety, etc.).

[The information follows:]

The figures comparable to that given above (i.e., the percentage of the original demand collected on claims that FRA concluded could be proven if litigated) for the past five fiscal yearss are as follows:

Fiscal year:	*Percent*
1985	57
1986	58
1987	55
1988	57
1989	56

CORRECTION OF VIOLATIONS CITED

Mr. LEHMAN. At the time of the settlement conference, how does FRA know whether or not the railroad has fixed all of the violations cited?

Mr. LINDSEY. We don't necessarily know whether they have fixed them going in. We like to take our inspector and the state inspector who has been working on the case as well in the settlement conference. We find that very fruitful. The railroad normally will offer as a mitigating factor or defense that they have fixed the violation, perhaps that they have fired the miscreant. Those are the kinds of mitigating factors that are often advanced. We weigh the quality of the evidence that they present in deciding whether or not to accept it. And that varies all over the land. Sometimes they have good evidence, sometimes it's very poor.

Mr. CARMICHAEL. One of the problems with this process is that—since we got into the backlog condition, the inspectors weren't being kept up to date on the status of their violation reports and files. In this new process, the inspectors will be included and a lot better informed of the status of their violations.

SAFETY ENFORCEMENT

Mr. LEHMAN. Given the NTSB's concern that you are not able to effectively target repeat offenders for inspections, we naturally wonder if you are able to prevent repeat offenses through enforcement of penalties. In cases closed during the past year, what percentage of FRA's initial assessment was agreed to in final settlement for cases involving repeat offenses?

Mr. CARMICHAEL. I'd have to answer that the way I answered the earlier one. Some violations, a very good percentage of 100 percent are settled at the amount that they were assessed. The others, because of the mitigating circumstances are not. So you really can't use a percentage in appraising these violations.

Mr. LEHMAN. Obviously, if a railroad knows that it will be a year or two before their violation results in a penalty, and if the proposed penalty is reduced significantly during negotiation, they have little incentive to fear enforcement sanctions. Can you assure us that this is not the case overall?

[The information follows:]

Certainly, we all agree that the time elapsing between a violation and the assessment of a penalty should be as short as possible, and as explained above, we are taking steps to do just that. But FRA takes many steps to ensure prompt notice to the railroad. On the very day an inspector determines that he or she will recommend the imposition of civil penalties, a copy of the inspection report embodying that recommendation is delivered to the railroad. In fact, whether the inspector is recommending penalties or not, it is incumbent on the railroad to take immediate corrective action; otherwise, the railroad is vulnerable to the assessment of additional, but now willful, penalties. With respect to the most serious violations, those we call top priority, FRA has since 1982 given those immediate attention, assessing penalties within a matter of days or weeks.

I should note that the vast majority of FRA's safety claims are against very large railroad corporations. In terms of the effect of civil penalties, the vintage of the claims makes little difference to these railroads when they must write out a check each year for several hundred thousand dollars. Those are hard-earned dollars coming off the bottom line that serve as an annual reminder of the need to operate in compliance with the safety regulations. The railroads experience the fear of enforcement sanctions every year. And since, at FRA's request, Congress substantially raised the civil penalties authorized by the rail safety laws in the Rail Safety Improvement Act of 1988, the railroads will be paying much larger penalties than before.

The effect of time on the deterrence value of these civil penalties can best be evaluated in the context of other legal deterrents railroads face. Like FRA civil penalties, the other legal deterrents with which railroads must cope are enforced through legal actions in courts (e.g., civil and criminal antitrust actions, tort suits, contract suits) or settlements of those actions. Compared with the time normally taken in such actions, FRA civil penalties are resolved relatively quickly, even with the current backlog. Thus, while faster settlement would probably enhance the deterrent of our civil penalties, that deterrent is comparatively powerful now.

Before passage of the Federal Claims Collection Act in 1966 and the Federal Railroad Safety Act of 1970, negotiation of rail safety claims was not authorized. The result was that very few civil penalties were collected. Since this approach was authorized, FRA's program has grown increasingly aggressive. During the years 1968 through 1979, FRA collected an average of $1.7 million in penalties each year. Since 1980, the average has been $4.5 million. Negotiating settlements of civil penalty claims does not reduce their deterrent value. The railroads know that FRA negotiates on the basis of facts and law produced by both sides—not arbitrary horse trading. Our settlements consistently reflect the actual value of the cases in court. Finally, the bottom line is the results, and on those the data are unequivocal: since 1978 the train accident rate per million train miles has been cut by two thirds, from 15.0 to 4.92.

COMPLIANCE AND EMERGENCY ORDERS

Mr. LEHMAN. FRA has other enforcement tools also, such as compliance orders and emergency orders. What criteria does FRA use in deciding to issue these types of orders, and how often does FRA use them in a year?

[The information follows:]

FRA has a wide variety of enforcement tools available to it other than the civil penalty; these include emergency orders, compliance orders, notices for repair taking equipment or track out of service immediately, and in some circumstances, criminal penalties. See 49 C.F.R. Part 209, Appendix A. The choice of a remedy depends on the nature of the threat to safety. The proposed operation of an excursion railroad over defective track last year resulted in FRA's issuance of an emergency order prohibiting that operation until the track was brought to appropriate standards. FRA inspectors routinely issue notices for repair when the defect poses a serious threat to safety. Of course, a new addition to our arsenal, thanks to the 1988 Act, is individual liability: both supervisors and employees are now liable for civil penalties or disqualification for safety-sensitive service where they violate the rail safety laws. FRA is already using this new authority to good effect.

RESEARCH AND DEVELOPMENT BUDGET

Mr. **Lehman**. What percentage of your fiscal year 1991 budget for research and development is dedicated to rail safety improvements, and how does that compare to the past years?

Mr. **Carmichael**. Of the $13.9 million requested for research and development, $8.7 or 64 percent is earmarked for safety research. The second part of the question is the prior years?

The focus on equipment and components, operating practices and hazardous materials research is at $3 million or 22 percent of the budget in that area. Track components, inspection-detection device systems and track train interaction research are at $4.7 million or 34 percent. Magnetic levitation and transportation systems research are at $1 million or 8 percent of the program.

Mr. **Lehman**. How does that compare to last year?

Mr. **Carmichael**. Where are my figures on that? We could respond for the record.

Mr. **Krick**. Gil, if I could, I'll take a crack at it.

Mr. **Carmichael**. All right. Bob Krick is the Director for Research and Development, a very experienced man.

Mr. **Krick**. Much of our budget request this year, as you know, is oriented for the Maglev. Last year, we did not have the Maglev in the budget. Also, last year we did not have money in there for the environmental cleanup. So basically everything but the administration funds in last year's request was for rail safety. I think we had about $1.35 million last year for our administration use and so our budget request last year minus that $1.35 was all for safety.

Mr. **Lehman**. Rail safety?

Mr. **Krick**. Right.

Mr. **Lehman**. It hasn't decreased?

Mr. **Krick**. No.

Mr. **Carmichael**. No, sir. It's about equivalent.

Mr. **Lehman**. What type of R&D activities does this finance, and how will they reduce the number of rail accidents? Can you give me a couple of examples?

Mr. **Krick**. The types of things are as we've been discussing human factors—the track research program, we're still developing performance standards for the track and we're working on quite a few of the things that cause the accidents in the track area.

In the equipment area and hazardous materials, we're trying to work on reducing the failures of tank cars, fatigue cracking, things like that. I think in the Maglev area we're just proposing to get started, of course, and we're working on developing the safety standards for the Maglev per the Rail Safety Improvement Act of 1988 requirement.

HUMAN FACTORS RESEARCH

Mr. **Lehman**. You are requesting $1.1 million for human factors R&D which amounts to 6.5 percent of your R&D. However, human factors account for over 30 percent of your accident causes. Isn't that disproportionate?

Mr. **Krick**. We have about 16 percent of our R&D budget—when you exclude administrative funds, the environmental cleanup and the Maglev development activities of the safety work, it's about 16 percent.

Mr. LEHMAN. The human factors portion?

Mr. KRICK. For the human factors.

Mr. LEHMAN. Sixteen percent is still only half of thirty percent.

Mr. KRICK. Yes, sir. We believe that the human factors activities are much more amenable to cost effective R&D dollars than some of the other areas. We spent in the early 1980s about $10 million on the development of what we call RALES, the locomotive simulator. And we're able to use that facility now to carry out our human factors activities at a very reasonable cost. So we believe we have a reasonable dollar value in there to address the human factors activities.

MAGLEV RESEARCH

Mr. LEHMAN. FRA is requesting $6.15 million in fiscal 1991 for research into magnetic levitation (Maglev) and high speed trains. What research are you planning, and why should such work be conducted at the federal level?

[The information follows:]

The FRA is planning research in the areas of Maglev Safety, Maglev Technology Assessment, and Maglev Market Studies and Economics. The Maglev Safety analysis will develop a technical data base for safety issues unique to super high speed guided ground transportation systems. In addition, technical criteria for safety standards development will be prepared. The material covered includes vehicles, guideways, control systems, and overall system integration. The Maglev Technology Assessments will use technical information and analysis to identify existing and advanced technologies suitable for application in improving the performance or reducing the cost of maglev systems. These assessments will include comparative evaluations of the various technologies on the basis of cost to build, maintain and operate systems and on the basis of when each is likely to evolve from concept to prototype to production. The Maglev Market and Economic Studies will produce forecasts of maglev ridership and revenues under different assumptions about maglev service to be offered, will produce cost estimates for providing that service, evaluate public benefits and costs, examine effort potential and impact on the U.S. economy, and estimate the extent of guideway construction and vehicle manufacturing activity that could realistically be expected if a U.S. maglev technology were developed. At the direction of Congress' Appropriations Committees, FRA is studying the feasibility of commercial maglev in the U.S. That study will be completed in June, 1990. Although the study is still in progress, it is clear that more information is needed with regard to both technology and economics before a decision can be made to proceed with a U.S. development program. FRA's proposed FY 1991 budget will be used to develop this information by determining the role of maglev transportation in the U.S. transportation system, including its economic feasibility, the appropriate safety and operational standards, and the technologies that must be developed to achieve an efficient and environmentally acceptable system.

HIGH-SPEED RAIL RESEARCH

Mr. LEHMAN. Isn't it a little inconsistent, I guess you could even say ironic, for the administration to support a futuristic, high-tech passenger rail system when the low-tech system, Amtrak, is not considered worthy of continued funding? What makes you think that such a future system will have cost recovery ratios even better than Amtrak's 70 percent?

Mr. CARMICHAEL. Part of the Secretary's approach in this transportation plan was to study high-speed surface transportation and as he stated in the budget, we are willing to work with Amtrak to help it move toward self-sufficiency. We congratulate the management team that has brought it up to 72 percent of its operating costs.

The question that we've got in the United States is high-speed surface transportation. Amtrak has one high-speed corridor, up to 125 miles an hour, the Northeast Corridor. The question that we have now is what is Amtrak's role in this new high-speed system that is available to us.

Amtrak is already talking to several high-speed rail people, I'll talk more on this tomorrow. They're talking to an operational company for some of the privately-built high-speed rail systems that are being considered. So as the Secretary and the Department of Transportation and Amtrak, as we look at Amtrak, it's what its role is in this high-speed system that's evolving, and we're going to be doing for the Secretary a very deliberate study to see Amtrak's role in high-speed rail and Maglev.

Interestingly enough, all of the systems that we've seen, the high-speed corridor systems, of Texas and Florida and California, all of them start at city centers where there's an Amtrak station and either go to an airport or another city center where there's another Amtrak station. So there is an intermodality there of these high-speed systems with the city centers and the Amtrak system also. So apparently Amtrak has some role in there, and we're in the process of identifying it.

Mr. LEHMAN. Mr. Coughlin.

Mr. COUGHLIN. I think the Chairman is raising an awfully important point here. If you look at Maglev and other exotic techniques and I guess just following up on Mr. Mrazek's earlier comments, it seems to me that population densities and corridor densities in Europe are an awful lot different than they are in the United States. I hope that your study will look at the cost benefits in relationship to the population densities and the corridor densities because we may not have nearly the number of corridors that would warrant the investment in a Maglev here that they have in Europe. That may be one of the reasons why they're investing over there and they're not investing here.

Mr. CARMICHAEL. That may also be—and sometimes when you look at something you see one thing but when you dig down below it you see something else. The reason Europe seems to be going to high-speed rail and to Maglev with these new technologies is they've got to move people at a faster pace to connect to the airport system. And FRA has funded several research programs, feasibility studies of markets in the United States, and every one of those, almost to the last one, has shown that if you can move at a higher speed on the surface systems, and you can move quantities of people, like 300 people in a train, at 180 miles an hour or 300 miles an hour, it becomes profitable and it makes money. And so again, the dichotomy of the inconsistency about Amtrak and talking about these future systems. They work in this United States. And we are moving toward those things because the highways are congested and getting worse and the average surface speed is slowing down. So while we have the dilemma of addressing Amtrak right now, we are also beginning to see that these high-speed corridors work and Amtrak may have an important role to play in those high-speed corridors. The private investors may put them in and then turn around and let Amtrak operate them. So to determine the Amtrak role, we've got to first determine this new high-speed technology. And that's again part of this magnetic levitation study that we're going through. We're doing a study on high-speed surface transportation right now at the Secretary's instruction and we're doing an analysis of how Amtrak fits into it.

Mr. COUGHLIN. Thank you, Mr. Chairman.

Mr. LEHMAN. Thank you, Mr. Coughlin.

Many people believe that the primary economic potential for a high-speed rail system lies in the 100-to-500 mile intercity market. The National Transportation Policy states that "other options, including new aircraft such as tiltrotor vehicles, have also been proposed to fill that market niche". What studies have been done to explore those other options before significant investment is made in high-speed rail?

[The information follows:]

The Department has initiated a study of high density corridors which will identify the types of markets in which high-speed transportation might prove useful, and then analyze which mode or modes would best fit in those markets. This study, which springs from a recommendation in the National Transportation Policy, will compare a wide range of modal options including: Amtrak's current rail system, high speed rail such as TGV or tilt-train, magnetic levitation (maglev) trains, high-speed highways such as intelligent vehicle/highway systems; and tilt rotor and fixed-wing aircraft. The study's results will be incorporated in any new Administration initiative that would involve significant Federal investment in any form of high-speed transportation. In addition, it is consistent with the Federal efforts in maglev proposed in the President's budget which are intended to determine the role of maglev in the U.S. transportation system, the economic feasibility, the appropriate safety and operating standards, and remaining technologies that must be developed to achieve an efficient and environmentally acceptable U.S. system.

HIGHWAY RIGHTS-OF-WAY FOR MAGLEV

Mr. LEHMAN. What is FRA's position on H.R. 3714, which would allow the utilization of highway rights-of-way for Maglev systems?

[The information follows:]

The Department has not yet formally transmitted its views on H.R. 3714 and, therefore, FRA cannot offer any formal views on this legislation at this time. The Department is exploring the potential for the use of existing transportation rights-of-way, including the Interstate Highway System, by high speed rail systems, including maglev. Preliminary assessments by the Federal Highway Administration have indicated that the location of high speed rail systems on Interstate Highway rights-of-way may be technically feasible in certain corridors where otherwise not constrained by curvature limitations. We are continuing to explore this issue and will work with interested parties to develop mechanisms to expedite the requisite approvals where highway segments can be used in a project.

Mr. LEHMAN. By the way, Mr. Mrazek said it was two and half hours from New York to Washington and from New York to Boston. It's actually about five hours from New York to Boston.

Mr. CARMICHAEL. Four and a half hours. And there is a new tilt technology in Europe that could probably, with electrification, shorten that between Boston and New York to three hours.

Mr. LEHMAN. It takes you one hour to fly each way, and twice as long to go on the surface to Boston than it does to Washington. So there is a corridor there that is worth developing.

Mr. CARMICHAEL. Yes, sir.

CORPS OF ENGINEERS INVOLVEMENT IN MAGLEV

Mr. LEHMAN. At the cost of one Stealth Bomber.

In a recent Senate hearing, the Assistant Secretary of the Army stated that the Army Corps of Engineers, the FRA, the DOE, and other agencies have formed a partnership to pool talent and resources for the Maglev program. What is the nature of this partnership, and how are the states and private industry represented?

Mr. CARMICHAEL. In the 1991 budget request, the President has recommended $6.15 million for FRA and $3.5 million for the Corps of Engineers. When we saw that, we formed a working committee between these different agencies, DOE, EPA, DOT. That working committee is moving rapidly and doing some very good brainstorming of this process.

I think the way the White House has planned it, in a sense they have kind of pitted FRA against the Corps of Engineers for competitive purposes to see how could we can think and what we can come up with. And so we're working together and we're also using our brains as fast as we can to visualize this mission.

Mr. LEHMAN. And DOE is refereeing the fight?

Mr. CARMICHAEL. DOE has got friends on both sides.

Mr. COUGHLIN. Mr. Chairman?

Mr. LEHMAN. Mr. Coughlin.

Mr. COUGHLIN. I for the life of me can't understand what the deuce the Army Corps of Engineers is doing in high speed transportation. I just make that as a comment.

Mr. LEHMAN. How are these people relating to private companies and states? Who are they talking to besides each other?

Mr. CARMICHAEL. This working committee right now—again, that just hit the ground in December and January, and they're just getting together and comparing notes at this point. We've also formed an executive committee, Federal Highway, Federal Aviation, UMTA, the DOE and all of them are on there to be policy people.

We are working closely with the Corps of Engineers. General Kelly and I have had several meetings together. The Corps of Engineers' resources—and one of the things about Maglev is that it's got a big, huge structure. The guideway is a concrete and steel structure. And if it is what I think it is, it's a potential new mode of transportation in the United States, then the design of that structure, the adoption of a standard guideway is an important part of it. About 65 or 75 percent of the cost of Maglev will be guideway. And so I frankly feel that the Corps has a role to play in helping us in this guideway analysis.

GOVERNMENT FINANCING OF MAGLEV

Mr. LEHMAN. How much of role do you think the Federal Government should have in Maglev? Should it take on the full cost? Half the cost?

Mr. CARMICHAEL. Under the budget the President has to live with——

Mr. LEHMAN. It would be zero.

Mr. CARMICHAEL. If there is a way for the Federal Government to play a different role in bringing about a project of this magnitude and this type, then the Federal Government should look at it.

As I have been talking to the states and to the consortiums out there, if they will put together their project—say a big contractor like Bechtel Corporation or Morrison-Knutson, if they will put together a project and work with the states and see what the state contribution is going to be, whether it be right of ways or some sort of financing. When they get that package put together, as I understand Secretary Skinner, is that he can bring those packages to—he said in one sense of the word, instead of a 90-10 project, if the private sector and the states can put their project together and if cash flows and it's a profitable type venture, and you're still short of some money, come show it to me and we'll look at it. And I'm not putting words in the Secretary's mouth, but if somebody comes with a 90 percent project and needs 10 percent, I don't mind going with them to the Secretary and trying to intercede for them to help get the government's role in there.

Mr. LEHMAN. In the meantime, are you proposing to fund some of these market studies?

Mr. CARMICHAEL. Yes, sir. In fact, a lot of the research may have been done on this new technology and now we're in the development stage. How do we implement it and how do we get it going? It may be in working with some of these companies that we will help do hard financial reports, so the banks will buy it. So your financial performance is what may be part of the development, and that's where limited Federal funds may get maximum dollars.

Mr. LEHMAN. Do I smell guaranteed loans in this?

Mr. CARMICHAEL. No, sir, I don't think so.

ORLANDO TO TAMPA HIGH SPEED RAIL PROJECT

Mr. LEHMAN. In a recent Washington Post article about high speed rail, you are quoted as saying that some Federal funding may be made available for the Orlando-to-Tampa high speed rail project. You mean the last 10 percent?

Mr. CARMICHAEL. I'd have to go back to that Washington Post article and this Maglev project that's down there. There may be an area, in the use of this $6 million in the first phase of implementing this Maglev project, there may be a legitimate way to use some of this money to help make this project get going and get off the ground.

Mr. LEHMAN. Not just for the Orlando-Tampa but for other systems elsewhere? You have the same philosophy?

Mr. CARMICHAEL. Yes, sir. That's right. If the money is appropriated for research and development, then the use of the development side of this money to cause these projects to come on stream—my understanding is that FRA has the authority to move in that direction.

EXPOSURE TO MAGLEV RADIATION

Mr. LEHMAN. Before leaving Maglev, we haven't talked about the physical damage to people exposed to magnetic radiation. I assume you've heard of some of those.

Mr. CARMICHAEL. Yes, sir.

Mr. LEHMAN. Do you have any information on this?

Mr. CARMICHAEL. A little bit, sir. The German technology is low magnetic fields, I think—Bob, do you want to add a comment to it? One has got a high magnetic field around it and the other has a very low magnetic field.

Mr. KRICK. Yes, that's right. The German system in the way it's constructed has a much lower magnetic field than say the Japanese system would have. Another part of that question, if I could, is part of our coordination activities that Mr. Carmichael mentioned.

We are working with EPA on this idea of the magnetic field effects on the humans and we intend to work with some other government agencies as well that are knowledgeable in that particular area. As part of our proposed Maglev effort in 1991, we have some activity defined for some of those dollars to work in that area.

Mr. LEHMAN. Is there any evidence that there is a safety problem, either to the train crews or to the steady user of this kind of train?

Mr. CARMICHAEL. We have our Federal Railroad Safety people working with the Maglev system in Germany, they've been over there a couple of times, and are also working with the Transportation Systems Center up in Cambridge. The German method of doing their safety analysis is by a private company. We are now analyzing the private company's approach to it, but we have not found anything in this that's a safety danger.

Mr. LEHMAN. People who live under high tension transmission lines are supposed to be adversely affected. I assume this would be a comparable type of situation you would have to at least evaluate.

Mr. CARMICHAEL. One of the largest companies in the United States is the Bechtel Construction Company. They were at the Maglev site the other day when I was there and they said they have not found any bugs in it at all that's one of the things they would be looking at. So apparently we don't have any problem.

Mr. LEHMAN. Would Maglev trains be subject to the same anti-smoking situations that airline travel is?

Mr. CARMICHAEL. If I have anything to do with it, they will.

ORLANDO TO TAMPA HIGH SPEED RAIL

On your question about the Orlando-Tampa—these new technologies get confused right now. There's a steel-on-steel super speed trains; these are locomotives that travel on steel rails. They do 160, 180 and 200 miles an hour. That technology is very advanced and we did a lot of work on it here in FRA back in the seventies. That technology is one of the systems that's being introduced and it is different from the magnetic levitated train that operates on a magnetic field.

So the Orlando-to-Tampa comment I think is referring to the Miami-Orlando-Tampa, which would be a high speed, steel-on-steel private venture that's underway. And we are working with them, too. So the steel-on-steel technology is very exciting and very, very good. I think both of these technologies will be in this country in this decade.

PASSENGER RAIL: COMPETITION WITH AIR TRAVEL

Mr. **Lehman**. Graham Claytor has said, if I may paraphrase him, give me the available locomotive equipment, diesels or whatever, give me the kind of track beds that I can run them on, and eliminate the political problems of which areas you pass through and environmental problems. He says up to 400 or 500 miles, I can compete very effectively with any airline travel without going to Maglev.

Mr. **Carmichael**. The equipment is there. That's correct. The grade crossings are the big problem.

DEVELOPMENT OF AC MOTORS

Mr. **Lehman**. And other types of problems. But not necessarily the need for an exotic Maglev train when you have the others that you can't even use because of many reasons.

There is some development work going on at FRA's test center in Pueblo, Colorado, regarding the potential of AC power for locomotives. Reportedly, the use of AC motors could reduce maintenance dramatically when compared to existing DCs. Amtrak is planning to procure AC-powered locomotives. Do you have an opinion on the potential use of AC motors in the freight rail industry for locomotive power? If not, what are the drawbacks?

Mr. **Carmichael**. I have to really dream in this area. I hope one of these days that a whole rail system across this country is electrified. And because the AC motors that you're talking about are extremely energy efficient, they don't pollute the air but the electrification is part of it. At some point in time, we're going to run out of petroleum.

In France, for example, they are using their nuclear electricity to electrify their whole train system. In fact, the EC is all electrification. This AC-powered locomotive is just an excellent piece of equipment. In my dream of the United States and its surface transportation system, I can see it out there. I think we're going to it.

Mr. **Lehman**. Do Japan and the Europeans use AC yet?

Mr. **Carmichael**. I'm not familiar with that.

Mr. **Krick**. Yes, sir. There are quite a few countries in Europe that are using the AC motor application. If I could just amplify on what Mr. Carmichael was saying, there's also in addition to the electrification issue and the use of AC motors, AC traction motors are also being considered for the diesel electric locomotives and in fact that's one of the more interesting applications in the freight business they're looking at, because it does offer considerable improvements.

Once they're developed, there's still some bugs, but once they're fully developed, there's considerable improvement.

Mr. **Lehman**. Sounds like you can buy them off the shelf in Europe now.

Mr. **Carmichael**. In Europe, it's the application to our technology.

TRANSPORTATION TEST CENTER CLEANUP—PUEBLO, CO

Mr. **Lehman**. Speaking of this facility—your budget includes funds to begin the cleanup of some significant environmental problems in Pueblo, Colorado. We are advised that FRA and the State of Colorado are having problems reaching final agreement on how to deal with this cleanup. What exactly is the nature of this problem, and what is your problem with Colorado?

Mr. CARMICHAEL. Mr. Chairman, that is a 40 by 70 foot dirt tank out on the test facility where chemicals got dumped in it over the last few years, part of the time when FRA was managing the test facility and the rest of the time with AAR managing it. We are in an argument right now with the State of Colorado on how much it costs to clean up that waste water lagoon, and the figures are in the neighborhood of $3 million and as high as $4.5 million. So we're trying to negotiate and settle with the State of Colorado and their EPA out there.

Mr. LEHMAN. Provide for the record a funding profile, by year, to clean up this site and a detailed schedule for the cleanup work.

[The information follows:]

The estimated funding profile for the environmental cleanup of the facilities at the Transportation Test Center is shown in the following table. Preparation has begun to facilitate the cleanup of the waste water lagoon, once we have approval of the closure plan from the Colorado Department of Health (CDOH). Cleanup of the other sites will follow the funding schedule in the table, with removal of all hazardous wastes expected by the end of FY 1993.

ENVIRONMENTAL CLEANUP

[In thousands of dollars]

Project	Planned funding by fiscal year		
	1991	1992	1993
Waste water lagoon	500	0	0
PCB oils	230	15	0
Underground fuel tanks	55	100	100
Solid waste mgmt units	655	385	150
Mercury rectifier	60	0	0
Total	1,500	500	250

SCENIC RAILWAYS OVERSIGHT

Mr. LEHMAN. What regulatory oversight does FRA perform over the operation of so-called 'scenic' railways operating with steam locomotives over relatively long distances in mountainous terrain such as the Grand Canyon Railway, Cumbres & Toltec, and Durango & Silverton Railway?

[The information follows:]

FRA recognizes the need to monitor some scenic railroads. As we become aware of each new operation, a data file is initiated and the regional FRA office notified. FRA inspectors are instructed to become familiar with such operations in each assigned territory and include them in regular inspection activities.

Unfortunately, limited inspector resources don't always allow comprehensive analysis of each scenic or "dinner train" operation. We must, therefore, prioritize these carriers, giving emphasis to those operating over hazardous terrain, mountain grades or that run more than one train at a time.

It is FRA's intent to continue to include most scenic rail operators as part of our regulated community. Compliance inspections will be conducted consistent with resources available.

AGREEMENT WITH TRI-COUNTY RAIL

Mr. **Lehman**. Mr. Coughlin, you have some general questions?

Mr. **Coughlin**. Thank you, Mr. Chairman.

In September of 1989, the Subcommittee was advised that the FRA intended to consummate an agreement with the Tri-County Rail Organization and the Florida DOT to repurchase all notes issued by Tri-County under financing agreement dated 31 July 1987, entered into pursuant to Section 505 of the Railroad Revitalization and Regulation Reform Act of 1976 and to terminate any further issuance authorized thereunder. What's the status of this?

Mr. **Carmichael**. I think they have settled.

Mr. **McQueen**. It's all finished, all closed.

Mr. **Carmichael**. They have drawn down so much money, and they were still due so much money and under the net present value, it pretty well washed out and we settled on a wash-out, I think.

DELAWARE AND HUDSON RAILROAD

Mr. **Coughlin**. Does the Federal Railroad Administration have any position on the trackage rights issue currently being discussed between the Delaware and Hudson Railroad and Conrail? As you know, the trustee in bankruptcy for D&H has accepted a bid from Canadian Pacific that was contingent upon obtaining trackage rights from Conrail for the Hagerstown, Maryland to Harrisburg, Pennsylvania route. Conrail feels it's not being offered enough for its trackage rights and there's been legislation introduced in Congress to provide these trackage rights. Do you have a position on that?

Mr. **Carmichael**. Since January, the D&H issue has dominated an awful lot of FRA's time. Our whole approach has been to try to keep that railroad as an entity and keep it operating. And to maintain the competition. As a regulator, I have to be very careful. I even wrote the Conrail president and the CP president together to see if they could horse trade and negotiate. They weren't able to, we are operating right now under a very tight deadline of about a 30-day extension with the trustee operating the track. There is conversation going on between Conrail and CP now. I hope that they will come to a mutual solution.

If they don't, then we have got to move deliberately and quickly in our role to go into what I would call an operating liquidation meeting, a 401 meeting. We want to give the Conrail and CP people as much time as we can to reach resolution. So we are in kind of a holding pattern or waiting pattern right now on what's going on with those two entities. They are two big private giants and it's very vital in our minds if we can preserve the D&H, to help preserve it. And we're doing everything we can.

JUSTIFICATIONS—OVESEAS TRAVEL

Mr. **Coughlin**. We'll turn to the justifications.

Please update for the record the breakdown of overseas travel by FRA employees found on page 72 of last year's hearing record starting on the date ending last year's submission.

[The information follows:]

OVERSEAS TRAVEL
MARCH 11, 1989 - MARCH 10, 1990

APPROPRIATION AND DESTINATION	PURPOSE	DATES	COST
SAFETY - OTTAWA, CANADA	Attend & participate in the AAR Hazardous Materials Steering Committee meeting.	AUGUST 14, 1989	$ 752.14
SAFETY - MOSCOW, USSR KIEV, USSR LIMAN, USSR	Meeting on Rail Cooperation Under US-USSR Trans Science and Technical Agreement.	SEPTEMBER 23, 1989	$2,774.12
OA - MOSCOW, USSR KIEV, USSR LIMAN, USSR	Meeting on Rail Cooperation Under US-USSR Trans Science and Technical Agreement.	SEPTEMBER 23, 1989	$2,951.27
SAFETY - CALGARY ALBERTA CANADA	To participate in AAR Safety Section Annual Meeting.	JUNE 26, 1989	$ 931.66
OA - TORONTO-ONTARIO, CANADA	Speak at the AAR Superintendents meeting.	JUNE 26, 1989	$ 774.59
OA - ROME, ITALY PARIS, FRANCE FRANKFURT, GERMANY MADRID, SPAIN	To inspect, ride, and be briefed on High Speed Rail and Magnetic Technologies.	OCTOBER 22, 1989	$1,109.80
OA - ROME, ITALY PARIS, FRANCE FRANKFURT, GERMANY MADRID, SPAIN	To accompany the Deputy Secretary and FRA Administrator and to inspect, ride, and be briefed on High Speed Rail and Magnetic Technologies.	OCTOBER 22, 1989	$ 550.35
OA - ROME, ITALY PARIS, FRANCE FRANKFURT, GERMANY MADRID, SPAIN	To accompany the Deputy Secretary and FRA Administrator and to inspect, ride, and be briefed on High Speed Rail and Magnetic Technologies.	OCTOBER 22, 1989	$ 550.35

OVERSEAS TRAVEL
MARCH 11, 1989 - MARCH 10, 1990

APPROPRIATION AND DESTINATION	PURPOSE	DATES	COST
OA - ROME, ITALY PARIS, FRANCE FRANKFURT, GERMANY MADRID, SPAIN	To accompany the Deputy Secretary and FRA Administrator and to inspect, ride, and be briefed on High Speed Rail and Magnetic Technologies.	OCTOBER 22, 1989	$ 598.45
R&D - FRANKFURT, GERMANY COLOGNE, GERMANY ELSLAND, GERMANY	To discuss w/German industry officials and TUEV Rheinland and Transrapid Maglev engineers the details of the Transrapid test program and procedures.	OCTOBER 6, 1989	$1,689.36
R&D - FRANKFURT, GERMANY COLOGNE, GERMANY ELSLAND, GERMANY	To discuss w/German industry officials and TUEV Rheinland and Transrapid Maglev engineers the details of the Transrapid test program and procedures.	OCTOBER 6, 1989	$1,632.67
OA - STOCKHOLM, SWEDEN	To inspect the new Swedish High Speed X-2 train.	FEBRUARY 10, 1990	$1,300.00

TRAVEL TO BUENOS AIRES

Mr. COUGHLIN. Please explain the benefits to the taxpayer derived from the $3,960 worth of travel expenses for a trip to Buenos Aires, Argentina, to attend a meeting of the Pan American Rail Congress Association, as shown on page 72 of last year's hearing record.

[The information follows:]

The meeting was a two-day planning session of the Pan American Railway Congress Association (PARCA), attended by Federal Railroad Administrator John Riley and a senior staff member. At that session, transport ministers and other senior officials from North and South America discussed and agreed upon the agenda for the next PARCA Congress to be held this year. As a PARCA member, FRA insisted on an agenda that would include discussion of railroad privatization—an issue which was less than welcome among most delegates committed to state run enterprises. The benefits of this trip are inherent in the benefits of membership and participation of U.S. Government agencies in organizations such as PARCA, in this case, furtherance of the market for U.S. railroad equipment exports, foreign technical assistance through the presentation of papers by U.S. authors on more efficient railroad practices and market driven operating policies, and discussion of problems and solutions common to U.S. railroads and some of the relatively advanced Latin American systems such as in Brazil and Mexico.

STANDARD LEVEL USER CHARGES FOR OFFICE SPACE

Mr. COUGHLIN. Please update the standard level user charges (SLUC) table found on pages 74 and 75 of last year's hearing record by adding data for fiscal year 1991.

[The information follows:]

FRA OFFICE SPACE

	HEADQUARTERS						FIELD				
	1/ OFFICE SPACE	2/ AUTHORIZED POSITIONS	4/ UTILIZATION RATE	3/ SLUC CHARGE	AVERAGE SLUC PER SQ. FOOT		5/ OFFICE SPACE	2/ AUTHORIZED POSITIONS	4/ UTILIZATION RATE	3/ SLUC CHARGE	AVERAGE SLUC PER SQ. FOOT
1985	62,341	335	186	$1,075,850	$17.26	1985	68,648	389	176	$842,997	$12.28
1986	57,974	312	186	$1,075,997	$18.56	1986	64,786	394	164	$803,994	$12.41
1987	56,941	304	165	$1,552,549	$23.03	1987	62,321	399	140	$719,451	$12.66
1988	54,642	304	158	$1,552,549	$23.03	1988	61,064	379	126	$719,451	$12.66
1989	52,203	281	163	$1,544,000	$30.84	1989	60,201	381	136	$767,000	$13.52
1990	52,176	282 6/	163	$1,938,000	$31.64	1990	60,590	419 6/	122	$955,000	$12.75
1991	52,176	302 8/	150	$2,039,606	$39.00	1991	65,180	465 7/	118	$966,394	$14.00

1/ Excludes parking allocation, office space temporarily occupied by NASA, and joint use space.

2/ Personnel assigned for space utilization purposes include: contractor, full-time, and other-than full-time personnel.

3/ SLUC charges shown are for all space including parking and joint use space currently occupied by NASA. OST directed that NASA space be included in the 1989, 1990, and 1991 budgets.

4/ Utilization rate excludes allowable supplemental space for FY's 1987 thru 1991.

5/ Excludes parking allocation and joint use space.

6/ These figures reflect an increase in FY 1989 and FY 1990 personnel staffing.

7/ These figures reflect an increase in FY 1991 personnel staffing.

8/ These figures include estimates for contractor personnel.

SES BONUS AWARDS

Mr. **Coughlin**. Please also update for the record the SES bonus award table found on page 77 of last year's hearing record. Please also indicate the total number of personnel eligible for each fiscal year.

[The information follows:]

SES BONUS AWARDS

Appropriation/Office	1988 Number	Amount	1989 Number	Amount	1990 Number	Amount	1991 Number	Amount
Office of the Administrator . . .	2	$10,700	1	$ 6,275	3	$13,510	*	*
Railroad Safety	2	$10,700	2	$ 7,925	-	-	*	*
TOTAL	4	$21,400	3	$14,200	3	$13,510		
TOTAL NUMBER OF ELIGIBLE EMPLOYEES	9		11		11		*	*

* The estimate for fiscal year 1991 would be the same as in fiscal year 1990, i.e., 3 persons receiving bonuses of approximately the same amount as in fiscal year 1990; but not necessarily the same offices.

FRA EMPLOYEES RECEIVING MORE THAN ONE SES BONUS AWARD

	1982	1983	1984	1985	1986	1987	1988	1989	1990
Executive Director, William Loftus	$5,500	$10,480	$5,900	$4,025	$4,020	-	$6,575	-	$4,550
Chief Counsel, S. Mark Lindsey	-	-	-	-	-	-	-	$6,275	$4,550
Associate Administrator for Safety, Joseph W. Walsh	-	-	$4,000	$6,075	$4,020	-	$6,575	$4,025	-
Associate Administrator for Passenger & Freight Services, Louis S. Thompson	-	-	$5,900	$6,075	$6,140	-	-	-	-
Associate Administrator for Administration Ray Rogers	-	-	-	-	-	$6,600	$4,125	-	-
Deputy Associate Administrator for Safety, Philip Olekszyk	-	-	-	-	-	$4,750	$4,125	-	-

WORKING CAPITAL FUND

Mr. Coughlin. Please also update for the record the working capital fund table found on page 79 of last year's hearing record by adding a fiscal year 1991 column.

[The information follows:]

Below is a breakdown of the Fiscal Year 1991 estimate for the Working Capital Fund and a comparison to fiscal year 1990:

WORKING CAPITAL FUND
(in thousands of dollars)

Services Provided	Fiscal Year		Difference
	1990	1991	(+ or -)
PRINTING	$176	$121	$-55
PHOTO	7	3	-4
GRAPHICS	41	50	9
DISTRIBUTION	24	34	10
TYPO AND DESIGN	7	4	-3
COPY MANAGEMENT	22	35	13
HOT COPY	81	84	3
BLDG MGMT	144	130	-14
SPACE RENT	1,857	1,955	98
PARKING	3	11	8
CHAUFFEUR	23	29	6
SHUTTLE BUS	2	2	0
WAREHOUSE	17	23	6
MAIL	41	40	-1
HEALTH	26	33	7
OSHA	1	1	0
CEIO	3	3	0
IMPREST	3	4	1
COMMUNICATIONS	323	365	42
SECURITY	42	54	12
GUARD SVC	76	87	11
PASSPORTS	1	1	0
UNEMPLOYMENT CO	6	75	69
TCC	35	42	7
TIME SHARING	611	24	-587
LIBRARY	164	173	9
LIBRARY (LEXIS)	0	23	23
DAFIS	-	72	72
TOTALS -	$3,736	$3,478	$ -258

POLITICAL APPOINTEES

Mr. COUGHLIN. Please also update for the record the political appointees tables found on pages 81 through 83 of last year's hearing record.

[The information follows:]

POLITICAL APPOINTEES

Fiscal Year 1982

Title	Type of Appointment	Salary
Administrator	Presidential	$59,500
Attorney-Advisor	Non-Career SES (Limited)	54,755
Deputy Administrator	Non-Career SES	58,500
Special Assistant to Admin.	Schedule C	39,689
Special Assistant to Admin.	Schedule C	47,442
Chief Counsel	Non-Career SES	58,500
Associate Admin. for Policy	Non-Career SES	58,500

Fiscal Year 1983

Title	Type of Appointment	Salary
Special Assistant	Non-Career SES	$63,800
Deputy Administrator	Non-Career SES	65,500
Special Assistant	Schedule C	34,930
Secretary	Schedule C	20,256
Program Coordinator	Schedule C	20,256
Chief Counsel	Non-Career SES	65,500
Attorney-Advisor	Non-Career SES (Limited)	56,945
Associate Admin. for Policy	Non-Career SES	63,800

Fiscal Year 1984

Title	Type of Appointment	Salary
Administrator	Presidential	$71,100
Special Assistant	Non-Career SES	66,400
Deputy Administrator	Non-Career SES	68,150
Intergovernmental Affairs Coordinator	Schedule C	36,327
Secretary	Schedule C	21,768
Program Coordinator	Schedule C	21,768
Supv. Public Affairs Spec.	Schedule C	30,549
Staff Assistant	Schedule C	21,066
Chief Counsel	Non-Career SES	68,150
Associate Admin. for Policy	Non-Career SES	66,400

Fiscal Year 1985

Title	Type of Appointment	Salary
Administrator	Presidential	$73,600
Deputy Administrator	Non-Career SES	70,500
Special Assistant to Admin.	Non-Career SES	68,700
Chief Counsel	Non-Career SES	70,500
Intergovernmental Affairs Coordinator	Schedule C	37,599
Supv. Public Affairs Spec.	Schedule C	32,673
Program Coordinator	Schedule C	26,381
Staff Assistant	Schedule C	22,531
Secretary (Typing)	Schedule C	22,531

Fiscal Year 1986

Title	Type of Appointment	Salary
Administrator	Presidential	$73,600
Deputy Administrator	Non-Career SES	70,500
Special Assistant to Admin.	Non-Career SES	68,700
Chief Counsel	Non-Career SES	70,500
Intergovernmental Affairs Coordinator	Schedule C	38,852
Supv. Public Affairs Spec.	Schedule C	38,852
Staff Assistant	Schedule C	26,381
Secretary (Typing)	Schedule C	24,811

Fiscal Year 1987

Title	Type of Appointment	Salary
Administrator	Presidential	$82,500
Deputy Administrator	Non-Career SES	Vacant
Special Assistant to Admin.	Non-Career SES	73,400
Chief Counsel	Non-Career SES	Vacant
Intergovernmental Affairs Coordinator	Schedule C	45,763
Supv. Public Affairs Spec.	Schedule C	41,309
Staff Assistant	Schedule C	28,078
Secretary (Typing)	Schedule C	Vacant
Associate Admin. for Policy	Non-Career SES	Vacant

Fiscal Year 1988

Title	Type of Appointment	Salary
Administrator	Presidential	$82,500
Deputy Administrator	Non-Career SES	71,910
Supv. Public Affairs Spec.	Schedule C	39,501
Executive Assistant	Schedule C	39,501
Associate Admin. for Policy	Non-Career SES	Vacant
Staff Assistant	Schedule C	34,325

Fiscal Year 1989

Title	Type of Appointment	Salary
Administrator	Presidential	$82,500
Deputy Administrator	Non-Career SES	76,400
Associate Admin. for Policy	Non-Career SES	71,800
Public Affairs Officer	Schedule C	41,121
Executive Assistant	Schedule C	42,492

Fiscal Year 1990

Title	Type of Appointment	Salary
Administrator	Presidential	$89,000
Deputy Administrator	Non-Career SES	81,400
Associate Admin. for Policy	Non-Career SES	74,400
Public Affairs Officer	Schedule C	48,992
Chief of Staff	Schedule C	73,692
Staff Assistant	Schedule C	24,705

OFFICE OF THE ADMINISTRATOR SALARIES AND EXPENSES

Mr. COUGHLIN. Please provide for the record an updated breakdown of position data, as shown on page 85 of last year's hearing record, by deleting fiscal year 1987 and adding fiscal year 1991.

[The information follows:]

OFFICE OF THE ADMINISTATOR
SALARIES AND EXPENSES

	FY 1988 ACTUAL					FY 1989 ACTUAL				
		(000)					(000)			
	Positions	Ftes	PC&B	OTHER	TOTAL	Positions	Ftes	PC&B	OTHER	TOTAL
EXECTIVE DIRECTOR	120	116	$3,981 2/	$2,436	$6,417 2/	123	108	$5,257	$2,171	$7,428
POLICY	40	37	1,870	503	2,373	40	37	1.965	350	2,315
PASSENGER & FREIGHT SERVICES	39	24	1,914	562	2,476	34	29	1,791	354	2,145
TOTAL	199	177 1/	$7,765 2/	$3,501	$11,266 2/	197	174	$9,013	$2,875	$11,888

	FY 1990 ESTIMATE					FY 1991 ESTIMATE				
		(000)					(000)			
	Positions	Ftes	PC&B	OTHER	TOTAL	Positions	Ftes	PC&B	OTHER	TOTAL
EXECTIVE DIRECTOR	125	120	$5.951	$2,330	$8.281	125	120	$6,201	$2,250	$8.451
POLICY	41	40	2,437	500	2,937	41	40	2,686	506	3,192
PASSENGER & FREIGHT SERVICES	30	25	1,737	209	1,946	26	25	2,148	272	2,420
TOTAL	196	185	$10,125	$3,039	$13,164	192	185 3/	$11,035	$3,028	$14,063

1/ Includes 3 non-ceiling full-time equivalents.
2/ Includes $1,900,000 reimbursement received from FHWA.
3/ Also requesting 3 reimbursable FTEs.

WASHINGTON UNION STATION

Mr. COUGHLIN. On page 13, your request for $1 million for contract support states that this reflects anticipated settlement of contract claims related to the redevelopment of Washington Station. Would you explain this statement? What claims are you referring to and on what is your estimate based?

Mr. CARMICHAEL. Mr. Lindsey, in my mind, has been the prime developer of the Union Station.

Mr. COUGHLIN. And it's magnificent, I might add.

Mr. CARMICHAEL. And it's magnificent and it is a very successful venture and it demonstrates what I've seen all around the country of the restoration of the rail stations. He is the executive in charge of this question.

Mr. LINDSEY. The claims in question are construction claims that the DICK Corporation, which was the general contractor for USRC, the public entities side of the rehabilitation and restoration project, brought forward months after conclusion of the job. The station opened in September of 1988 and months later apparently all of the subcontractors had cascaded claims that they had been holding back to the general contractor and the general contractor then came in with them. This is a reserve against settlement of those claims. Since the claims appeared, we have been negotiating them, one by one, between USRC and the DICK Corporation. I think the initial total was $14.4 million. We expect the eventual settlement to be far, far lower than that.

Just to give you a quick feel for that, more than $7 million of the claims were dismissed as invalid all together. The remainder we're negotiating over amount. Within that remainder, there are also claims that resulted from change orders requested either by Amtrak or by Union Station Venture, the private commercial developer of the station. And so once we reach an agreement with the DICK Corporation over what amount is owed, then we will have a discussion with our partners over what part of that they owe.

Mr. COUGHLIN. How many claims have been paid out to date and what's your schedule for completing payment?

Mr. LINDSEY. USRC has paid out somewhat over $1.4 million thus far. We anticipate that the negotiations will probably be completed with the DICK Corporation within the next month. With Amtrak, the discussion of what portion of that Amtrak owes is done. The discussions with USV I would hope would also be completed within about the next month, but that's a little bit less certain.

BENEFITS FOR FORMER PERSONNEL

Mr. COUGHLIN. Why are benefits for former personnel rising to $800,000 in fiscal year 1991, after only $53,000 in each of the last two fiscal years?

[The information follows:]

The "Benefits to former personnel" for FY 1991 includes a bill for $743,714 to reimburse the Department of Labor for payments they made for the Alaska Railroad Workers' Compensation.

The FY 1991 request of $743,714 is for actual payment made by the Department of Labor to eligible recipients for the period July 1, 1988 through June 30, 1989.

FRA is required by statute to request an appropriation from Congress to reimburse the Department of Labor for payments made to federal employees from the Workers' Compensation Fund. There is a 2-year delay between the time DOL makes the annual payment and when Congress can appropriate funds for FRA to reimburse DOL from the actual payments.

HEALTH INSURANCE COSTS

Mr. COUGHLIN. You are requesting an increase of $117,000 for health insurance costs for the staff of this office. This was based upon the average 30 percent increase which took effect in January 1989. However, not all health plans rose by that amount, and no mention is made of the rate changes made in January 1990. Explain in detail how your increase was calculated, and how actual experience since the rates were announced in January 1989 affects that estimate.

[The information follows:]

After the 1988 Open Season, held during November and December, FRA's contributions for employee health insurance benefits increased 44 percent when the new rates and plans became effective in January 1989. This was an average increase among all plans chosen by the employees within the Office of the Administrator appropriation. Our FY 1991 budget estimates had to be prepared before the 1989 Open Season, however. We assumed additional rate increases of 30 percent would become effective in January 1990 and January 1991. The actual average rate increase in January 1990 was 11 percent. There is no advance information available on any January 1991 rate adjustments.

OFFICE AUTOMATION SUPPORT

Mr. COUGHLIN. You are requesting $174,200 for office automation support in fiscal year 1991. Last year, the 1991 estimate for these expenses was $330,000 as shown on page 92 of last year's hearing record. Why is there such a decrease?

Mr. CARMICHAEL. I'll let my budget man answer that.

Mr. CECCUCCI. There were two major factors in the difference in the figures. In 1990, our appropriation is being eroded by additional cost absorptions and we are also subject to a cap on our advisory and assistance contract support services. Therefore, we have had to reduce some discretionary expenditures for computer maintenance and training and supply purchases.

Mr. COUGHLIN. Your fiscal year 1990 estimate last year was $281,000. Your current estimate is only $151,000. What happened to the remainder?

Mr. CECCUCCI. Similar situation. We did have to reduce our discretionary/advisory contract support services.

Mr. COUGHLIN. Please update for the record the office automation support services cost breakdown found on page 92 of last year's hearing record.

[The information follows:]

Description	Actual expenses, fiscal year				Estimated expenses, fiscal year	
	1986	1987	1988	1989	1990	1991
Training		$16	$34	$26	$13	$25
Technical support	$155	72	141	216	139	168
Maintenance	80	66	52	46	145	94
Software and supplies	—	—	—	—	—	39

Description	Actual expenses, fiscal year—				Estimated expenses, fiscal year—	
	1986	1987	1988	1989	1990	1991
Total	235	154	227	288	297	326

OFFICE AUTOMATION COST DATA

Mr. COUGHLIN. Please also update for the record an update of office automation cost data found on page 93 of last year's hearing record.

[The information follows:]

The FRA 1986 5-year office automation equipment acquisition plan identified objectives to be achieved through acquiring and using state-of-the-art computer resources, and a plan to acquire those resources. The plan noted that FRA's base of office support equipment at that time was archaic and frequently was inoperative due to component failures. The plan further stated that FRA should acquire state-of-the-art computer resources to support the programs and overall management decision process.

The plan outlined an acquisition of 227 workstations for headquarters applications over a 5-year period, distributed as follows:

	Fiscal year—						Total
	1987	1988	1989	1990	1991	1992	
Units	134	31	45	10	4	3	227
Cost (thousands)	$720	$223	$380	$72	$29	$22	$1,446

Subsequent to the issuance of the plan, FRA moved aggressively towards the use of microcomputer resources and acquired some of its out-year projections in FY 1987–8. Additionally, FRA had planned in FY 1990 to begin to provide its field safety inspectors with laptop computers (or comparable devices) to enhance their data collection and reporting requirements concerning railroad safety matters. However, because of Gramm-Rudman-Hollings budget reductions, the 120 laptop computers planned for the Office of Safety for FY 1990 will be deferred a year. This action changes the FRA requirements to those reflected in the following table:

ACTUAL AND PLANNED IMPLEMENTATION

	Fiscal year—						Total
	1987–8	1989	1990	1991	1992	1993	
Microcomputers	222	39	9	4			274
Laptop computers				120	120	120	360
Cost (thousands)	$958	$351	$81	$576	$540	$540	$3,046

FRA estimates that the system life (5-Year) cost of a microcomputer workstation is approximately $9,000 and $4,500 for the laptop computers, with most of the cost going towards the initial purchase of the workstation, associated components, peripheral equipment, and training.

The cost benefits associated with the acquisitions have resulted in FRA reducing computer timesharing expenditures and contractor ADP support services. They have allowed FRA to assume its increased workload for essential programs with a relative stable staffing level and will provide for productivity gains throughout the agency. The pilot program for the laptop computers (or comparable unit) is still being conducted. If it is successful, FRA plans to provide each of its field safety inspectors with a unit.

Mr. Coughlin. Last year, you advised us that you were not entirely happy with the contractor's work. Has the contractor gotten more responsible in the past year?

Mr. Ceccucci. Yes, he has, Mr. Coughlin.

Mr. Coughlin. What percentage of the total amount originally requested for office automation equipment and related support has been reprogrammed to other purposes over the past three fiscal years?

[The information follows:]

There has been no reprogramming of office automation funds to other programs over the past three fiscal years. FRA has closely followed the original 5-year office automation equipment acquisition plan and schedule. In fact, we were able to increase the number of personal computers acquired in fiscal years 1987-1988 because of favorable reductions in unit costs. In FY 1989-90, the Pryor Amendment limitations on consultant services have caused us to restrict funding for and to delay some technical support services. In FY 1990, we have had to delay purchase of laptop computers for our field inspectors because of G-R-H reductions.

TECHNICAL ASSISTANCE TO SHORTLINE RAILROADS

Mr. Coughlin. You are requesting $75,000 for a new budget item, "freight services technical assistance to regional and shortline railroads." This was described as to essentially help such railroads financially and to help them improve their safety and efficiency of operations. Why is such financial aid necessary, especially in a deregulated environment, and how far will $75,000 go?

Mr. Carmichael. Not very far. We're going to be very careful with it. Earlier today, we discussed the creation of these new regional railroads. They are fragile, they are entrepreneurial, they are aggressive, and they are generating a lot of business. We want to keep them private and we want to keep them off the public rolls and we certainly don't want them abandoned. So this is a very limited amount of money designed to help them probably in software and in safety reporting and in management of their railroads.

Mr. Coughlin. You can't sneeze in the Federal government for $75,000.

Mr. Carmichael. But you've got a little car dealer from Mississippi that thinks it's a big amount of money. It is very limited, but I think on the software side and in the reporting side it will be a start.

Mr. Coughlin. How many of these railroads are there?

Mr. Carmichael. There are 565 railroads in the United States, private railroads. We're talking about probably 400 and something railroads that are in the Class II, Class III and shortline category—450—in that neighborhood.

Mr. Coughlin. Yes.

Mr. Ceccucci. One additional point, Mr. Coughlin. That $75,000 is for a cooperative program. We hope that the Federal investment will generate some support from the universities and railroads themselves.

Mr. Coughlin. This work includes the development of safety education programs, drug and alcohol abuse education and maintenance planning techniques. Why can't supporting services be provided by industry associations rather than FRA?

Mr. Carmichael. This new group of railroads does not have a very sophisticated national association. They have an association that's in evolution and taking them through this formative stage, this is a small part where FRA may be able to help them. Their association is working and working hard in generating its support of its members.

INCREMENTAL STAFFING COSTS

Mr. COUGHLIN. Please provide for the record the incremental staffing and dollar amounts to support continuation of each of the following programs in fiscal year 1991: Amtrak, LRSA, Section 505 preference shares, and NECIP. Please also compare this data to actual fiscal year 1990 onboard and authorized staffing/dollar levels for each program.

[The information follows:]

FRA's FY 1991 request does not reduce staffing support for the Amtrak, LRSA, and NECIP programs because of continuing management responsibilities in closing-out these activities. As a result of the Section 505 loan asset sales, current staffing will be reassigned to replace personnel attrition in other programs. FRA's budget proposes to eliminate four authorized positions that have remained vacant and unfunded. Following is a chart comparing the program staffing of the Passenger and Freight Division in Fiscal Years 1990 and 1991:

PASSENGER AND FREIGHT STAFFING

[Dollars amounts in thousands]

	Fiscal year 1990				Fiscal year 1991		
	Positions	FTE's	On-board Mar. 19, 1990	Funding	Positions	FTE's	Funding
Amtrak	8	5	4	$389	7	6	$506
NECIP	5	3	4	234	4	4	337
Freight	7	7	9	545	6	6	506
LRSA	5	5	5	389	4	4	337

CHIEF COUNSEL AND PASSENGER AND FREIGHT STAFFING

Mr. COUGHLIN. Please update for the record the listing of positions in the Office of the Chief Counsel and Office of Passenger and Freight Services, as shown on pages 88 and 89 of last year's hearing record.

[The information follows:]

OFFICE OF CHIEF COUNSEL

Chief Counsel—$81,400.
Attorney Advisor (Transportation)—$76,982.
Trail Attorney—$76,982.
Supervisory Attorney Advisor—$75,205.
Secretary (Stenography)—$32,121.
Attorney Advisor (Transportation)—$57,054.
Attorney Advisor—$55,376.
Attorney Advisor—$50,342.
Secretary (Stenography)—$24,605.
Secretary (Typing)—$20,598.
Supervisory Attorney Advisor—$76,982.
Attorney Advisor (Transportation)—$60,410.
Trail Attorney (Transportation)—$75,304.
Supervisory Trail Attorney—$71,060.
Trail Attorney (Transporation)—$60,410.
Trail Attorney (Transporation)—$60,410.

Trial Attorney—$60,410.
Trial Attorney—$55,376.
Trial Attorney—$42,601.
Trial Attorney—$42,601.
Trial Attorney—$38,213.
Trial Attorney—$37,019.
Trial Attorney—$37,019.
Trial Attorney—$29,891.
FOIA Coordinator--$37,859.
Docket Clerk—$31,297.
Enforcement Information Specialist—$29,649.
Secretary (Stenography)--$28,335.
Clerk Typist—$18,947.

Office of Associate Administrator for Passenger and Freight Services

Associate Administrator for Passenger and Freight Services—$81,400.
Deputy Associate Administrator for Passenger and Freight Services—$79,200.
Transportation Industry Analyst—$60,204.
Program Analyst—$52,541.
Secretary (Stenography)—$32,121.
Director, Office of Freight Services—$79,200.
Secretary (Stenography)—$28,335.
Supervisory Railroad Industry Specialist—$70,732.
Railroad Projects Specialist—$53,698.
Supervisory Financial Analyst—$69,966.
Financial Analyst—$65,444.
Financial Analyst--$57,054.
Program Manager—$46,861.
Secretary (Stenography)—$24,906.
Supervisory Transportation Specialist—$72,643.
Program Analyst—$65,444.
Program Analyst—$63,766.
Program Analyst—$52,541.
Secretary (Typing)—$26,252.
Secretary (Stenography)—$27,589.
Supervisor Transportation Specialist—$67,772.
Railroad Industry Analyst—$55,381.
Program Analyst—$29,649.
Program Analysis Officer—$72,060.
Electronics Engineer—$65,444.
Cost Accountant—$51,121.
Secretary (Typing)—$24,906.

OFFICE OF THE ADMINISTRATOR STAFFING

Mr. COUGHLIN. Please also update for the record the similar data for the immediate Office of the Administrator, as shown on pages 89 and 90 of last year's hearing record.

[The information follows:]

Immediate Office of the Administrator

FRA Administrator—$89,000.
Deputy Administrator—Designate—$81,400.
Special Assistant—$79,200.
Special Assistant to the Administrator—$76,982.
Staff Assistant—$24,705.
Program Analyst—$45,441.
Chief of Staff—$73,692.
Secretary (Stenography)—$35,867.
Secretary (Typing)—$26,843.
Motor Vehicle Operator—$23,771.
Executive Correspondence Specialist—$37,859.
Secretariat Staff Specialist—$30,473.
Correspondence Review Assistant (Typing)—$22887.

"OTHER PERSONNEL COMPENSATION" COSTS

Mr. COUGHLIN. Please also update for the record the table found on page 90 of last year's hearing record concerning "other personnel compensation costs" for this office.

[The information follows:]

OFFICE OF THE ADMINISTRATOR-OTHER PERSONNEL COMPENSATION

[In thousands of dollars]

	Category	Fiscal year 1988 (actual)	Fiscal year 1989 (actual)	Fiscal year 1990 (estimate)	Fiscal year 1991 (estimate)
1151	Overtime	33,986	30,411	30,000	30,000
1152	Holiday pay	619	711	700	700
1161	Special Achievement and Employee Suggestion or Incentive Cash Awards.	43,471	7,918	8,000	8,000
1162	Merit Pay Cash Awards	56,031	39,436	35,000	35,000
1163	Senior Executive Awards	10,400	6,275	10,000	10,000
1164	Performance Management System Awards		44,636	45,000	46,000
	Total	144,507	129,387	128,700	129,700

COMMUNICATIONS, UTILITIES AND OTHER RENT

Mr. COUGHLIN. Please also update for the record the Office of the Administrator communications cost table found on page 90 of last year's hearing record.

[The information follows:]

COMMUNICATIONS, UTILITIES, AND OTHER RENT, OFFICE OF THE ADMINISTRATOR

[In thousands of dollars]

Description	Object class	Fiscal years		
		1989 actual	1990 estimate	1991 estimate
Rental of office space	2302	$1,181	$1,415	$1,415
Utilities	2310	0	0	0
Federal telecommunications system	2320/2328	98	231	239
Local telephone and switchboard service	2321	95	54	51
Telegraph other wire and wireless service	2323	0	0	0
Penalty mail	2324	74	53	59
Other communications	2325	2	0	0
Rental of word processing equipment	2330	0	0	0
Rental of ADP equipment	2332	0	0	0
Total		1,450	1,753	1,764

ALASKA RAILROAD WORKERS' COMPENSATION

Mr. COUGHLIN. You are requesting $744,000 for reimbursement to the Department of Labor for Alaska Railroad Workers' Compensation. How was this figure calculated?

[The information follows:]

The FY 1991 request is for actual payments made by the Department of labor to eligible recipients during the period July 1, 1988 through June 30, 1989. The request for funds is two years behind the actual payments of benefits.

Mr. COUGHLIN. Last year, the Federal Government's liability was down to 34 persons in this activity. What is that number today?

[The information follows:]

There are 29 beneficiaries remaining on the compensation rolls in the latest billing. When the Alaska Railroad was transferred to the State of Alaska, FRA retained liability for 41 beneficiaries. The Government is continuing negotiations on one-time buyouts and there has been a reduction on the remaining number of beneficiaries on the rolls.

RAILROAD SAFETY POSITIONS

Mr. COUGHLIN. You are requesting an additional 47 staff years in the railroad safety office in fiscal year 1991. Why are so many new positions needed?

Mr. CECCUCCI. Mr. Coughlin, last year, the committee authorized 40 new positions for safety but we requested and Congress provided funding for only 22 FTEs for those new positions. So we're requesting funds to annualize the remaining 18 FTEs.

In the past years, our appropriations have slowly been eroded and have not enabled us to fully fund up to our authorized strength, so we are asking for funding for another 17 FTEs to bring us up to a more normal attrition level. And then we're asking for 12 FTEs in the new trainee positions.

Mr. COUGHLIN. Please provide a breakdown for the record of these positions, including the job title, specific grades and geographic location.

[The information follows:]

In FY 1990, Congress authorized 40 new positions to fulfill added responsibilities brought about by the Rail Safety Improvement Act (RSIA) of 1988. However, funding was requested and approved to support 22 FTEs against these new positions. For FY 1991, FRA is requesting the necessary funding to cover the annualization of salaries, benefits and related expenses for 18 FTEs remaining from the new positions authorized in FY 1990.

FTE	Job title	Grade	Location
13	Railroad Safety Inspector	GS-12	Field.
4	Secretary	GS-5	Field.
1	Railroad Safety Specialist	GS-13	Headquarters.

FRA is requesting additional salaries and expenses funding to hire 11 field and 6 headquarters positions that were previously authorized but unfunded during FY 1990. The additional funds will enable FRA to maintain a normal annual attrition rate and support the increased workloads resulting from the RSIA.

FTE	Job title	Grade	Location
4	Railroad Safety Inspectors	GS-12	Field.
7	Secretary	GS-5	Field.
2	Railroad Safety Inspectors	GS-13	Headquarters.
1	Railroad Safety Inspectors	GS-12	Headquarters.
1	Railroad Safety Inspectors	GS-11	Headquarters.
2	Secretary	GS-6	Headquarters.

FRA also requests funds for 12 trainees. FRA plans to recruit from colleges and universities minorities and women who are receptive to new technologies and who might remain with FRA for many years. The trainees will receive on-the-job training, formal classroom instruction, and rotational assignments through the inspector disciplines.

FTE	Job title	Grade	Location
12	Railroad safety trainees	GS-5 or GS-7	Field.

Prior to FY 1990, Congress had authorized 446 positions for Railroad Safety. However, due to cost absorptions, FRA had only sufficient funds to fill 412 of these positions in FY 1990.

PAY INCREASE COSTS

Mr. COUGHLIN. Your request includes $960,000 for the fiscal year 1990 pay raise. In this amount are there funds to cover the pay raises of non-FRA employees who are providing contract and reimbursable services to the agency? Why don't the contractors or host agencies budget for such funds, to be reimbursed by FRA? How much funding is involved?

[The information follows:]

Other Federal agencies support FRA's safety programs and activities through contractual and reimbursable agreements. The National Institute of Health, for example, provides automated data processing support to our accident and incident statistics and historical data files. Therefore, we include the Federal pay cost increases associated with those agencies in our request in order to cover the increased overhead costs that will be passed on to us. Host agencies can request funding for pay cost increases through OMB for positions that are paid directly from appropriated funds, not for positions that are funded by reimbursements from other agencies. If the reimbursing agencies do not finance the cost of the host agency's positions, including pay cost increases, the level of support is reduced accordingly.

Of the $960,000 estimate for comparability pay adjustments, $98,281 was included for increases for personnel of these other agencies.

RAILROAD SAFETY TRAINEE POSITIONS

Mr. COUGHLIN. On page 51, you request $612,000 for 12 new trainee positions in railroad safety. The justification states these personnel would be hired at the GS-5 or GS-7 level, right out of college. Yet, you budget an average cost of $51,000 per position. Are these figures accurate? And, if so, why are you budgeting so much?

Mr. CARMICHAEL. It's a three-year training program. And speaking to the Chairman, he brought this up a while ago, about bringing in women and minorities into FRA. We have been kind of a good old boy organization since we have used senior railroad people for a long time. When I got here, I realized that the attrition rate was so high in the older and experienced senior inspectors that somehow or another we've got to bring in a younger group. And I requested a training program to bring in youngsters, women, minorities in out of the small colleges around the country, a job of this type and this manner. They've got M.E. graduates, mechanical engineers or industrial engineering graduates. I think there's a wealth of young people out there that are data smart, computer smart, new technology smart and would like this program.

In a three-year time, we think we can produce a good, fine, new inspector, many of them minorities and women, for about a $150,000 cost per person over the three-year period.

Mr. LEHMAN. My question was addressed more to the railroad industry itself, not necessarily the operation of FRA, but it certainly would be applicable for the kind of opportunities you have and in the administration itself.

Mr. CARMICHAEL. That's why in this Agency we need to introduce it. And I hope they're doing it in the industry, and I think I see them doing it. We want to do it in FRA, too. The cost of $51,000 per person per year—at the end of three years for about $150,000, we will have an inspector that will probably stay with us for many years.

Mr. COUGHLIN. Again, a GS-5 doesn't makes $51,000.

Mr. CARMICHAEL. No, sir, a GS-5 doesn't. But that's travel and training expenses.

Mr. CECCUCCI. I do have some detailed information on that. The average salary that we're estimating is $17,600 per trainee, which is the average between a GS-5 and a GS-7. There's an additional $5000 worth of benefits, FERS participation, health insurance and so on. There's a large amount, about $11,000 just for training of the new inspectors. And they'll be doing a lot of on-the-job travel and training so there are travel costs of about $8400. There are other incidental costs such as rental of space, equipment, and supplies that we need to provide them with. We do have a detail for that $51,000 estimate.

Mr. COUGHLIN. It seems like you're going to have a dickens of a time hiring top notch college graduates at the GS-5 level.

Mr. CARMICHAEL. Mr. Coughlin, I'm from rural America and there are an awful lot of small schools and colleges across the country that these jobs will be very attractive to, and they haven't been offered to them before. And we're going to do that. Using our Office of Civil Rights, we're going to deliberately work in these small colleges in these areas to bring these types on.

Mr. COUGHLIN. Can you put the detailed breakdown in the record?

Mr. CARMICHAEL. Yes, sir.

[The information follows:]

Following is the average cost per year estimated for each trainee:

Salary (GS-5/GS-7)	$17,600
Benefits (FERS, health insurance, life insurance)	5,000
Travel and per diem	8,400
GSA rent	2,600
Other (working capital fund, telephone, et cetera)	4,000
Training expenses	11,000
Supplies, equipment, clothing, et cetera	2,400
Total	51,000

Mr. COUGHLIN. Since you are planning to hire persons right out of college, can we assume that most of these positions would not be filled until the summer of 1990, after most of the fiscal year is over? When does your budget request assume these new positions will be filled?

Mr. CARMICHAEL. I'll let you answer that. Go ahead.

Mr. CECCUCCI. We plan to hire the trainees on October 1, 1990, and begin the formal training program by January 1, 1991.

Mr. COUGHLIN. Additional funds were provided in fiscal year 1990 for 34 new inspectors. How many of these positions are currently filled, and how many will be onboard at the end of fiscal year 1990?

[The information follows:]

We currently have 326 of our 361 authorized positions on-board.

Because 22 FTE's were provided for these 34 new positions, it was not possible to fill the new inspector positions for the full fiscal year. However, our recruitment actions for the new positions have been offset by staff attrition, mostly retirements.

We will be up to our fully authorized strength of 361 by the end of June. This will be the highest number of field professionals FRA has ever had.

FEDERAL INSPECTOR STAFFING DATA

Mr. COUGHLIN. Please update for the record the data on Federal inspector staffing, as shown on page 160 of last year's hearing record.

[The information follows:]

Type of position	Authorized positions	Current on-board strength
Regional safety directors		8
Field safety supervisors		6
Training specialists		2
Motive power and equipment inspectors		99
Track inspectors		69
Operating practices inspectors		61
Signal inspectors		43
Hazardous materials inspectors		37
Trainee inspectors		1
Total regional directors and inspectors	361	326
Clerical	58	45
Total, field	419	371

STAFFING-FEDERAL AND STATE INSPECTORS ONBOARD
End of Year Full Time Permanent

	Federal Inspector					State Inspectors	
	Onboard Fiscal Years			Projected Fiscal Years		Onboard Dec. 1989	Projected Fiscal Year 1990
	1987	1988	1989	1990	1991		
Regional Safety Directors..	8	7	4	8	8	...	...
Field Safety Supervisor....	-	2	8	8	8	...	...
Motive Power and Equipment Inspectors.....	101	102	94	105	105	35	34
Track Inspectors...........	71	71	69	72	72	64	63
Operating Practices Inspectors...............	53	54	53	76	76	11	13
Signal Inspectors..........	39	41	42	43	43	2	3
Hazardous Materials Inspectors...............	34	34	38	44	44	...	...
Trainees..................	1	-	-	-	12	...	...
Training Specialists........	4	3	2	5	5	...	...
Total	311	314	310	361	373	112	113

TOXICOLOGICAL TESTING COSTS

Mr. COUGHLIN. Break down the funding requested for toxicological testing, compare such costs to fiscal year 1990, and explain fully any differences.

[The information follows:]

The total FY 1991 funding requested for toxicological testing is $600,000 compared to $500,000 for FY 1990. In FY 1990, $350,000 will be used for the post-accident testing contract which provides for toxicological analysis of blood and urine samples following major railroad accidents. Approximately $100,000 will be used to cover the cost of an oversight contractor to provide continuous evaluation of the post-accident testing being conducted. Approximately $50,000 will be used on evaluation of random testing plans and oversight of the random testing process on the railroads through site visits. In FY 1991, approximately $400,000 will be necessary to cover the costs of the post-accident testing contract. An additional $150,000 is required to cover the cost of the oversight contractor for evaluation of the post-accident testing. The FRA estimates that contractual assistance required in the review and oversight of random testing plans being utilized by the railroads in FY 1991 will cost approximately $50,000. The increase reflects generally higher activity levels in FY 1991 compared with FY 1990.

HUMAN FACTORS RESEARCH

Mr. COUGHLIN. In March of 1988, the Senate Appropriations Committee recommended that between 20 and 30 percent of FRA's R&D budget be allocated to human factors research. At that time, FRA disagreed, saying that such a large allocation was not desirable. What is your position today?

Mr. CARMICHAEL. I'll let Mr. Krick speak in a second. The human factors research many times does not require huge pieces of equipment or costly devices to do it. So you can do tremendous human factor research, as I understand it, with a lot more dollar efficiency than you can do heavy training research or something of that nature. Is that correct, Mr. Krick?

Mr. KRICK. Yes, it is, Mr. Coughlin. And we continue to believe that the most cost effective way of doing our research is to do a very standardized approach at defining what needs to be done and then defining the projects that can carry that out and that's the approach that we use, as opposed to trying to put a somewhat arbitrary percentage value on what we should be doing. And we would recommend that we do that.

Mr. COUGHLIN. Please update for the record the table found on page 76 of last year's hearing record concerning human factors research projects.

[The information follows:]

HUMAN FACTORS-RELATED RESEARCH

[In thousands of dollars]

Project	Fiscal year funding		
	1989	1990	1991
RALES operation and maintenance [1]		200.0	
Selecting locomotive engineers [2]	96.214	50.0	
Hazardous materials on short line railroads [3]	14.825		
Grade crossing safety/OLI [4]	150.0	100.0	100.0
Grade crossing safety demonstration		100.0	100.0
Locomotive control compartment safety [5]	158.9	250.0	250.0
Engineman stress and fatigue	50.0	250.0	250.0

HUMAN FACTORS-RELATED RESEARCH—Continued

[In thousands of dollars]

Project	Fiscal year funding		
	1989	1990	1991
Advanced train control system evaluation	74.818	126.1	325.0
Dispatcher function evaluation		110.0	125.0
Operating personnel impairment evaluation		50.0	([6])
Evaluation of locomotive engineer training			111.0
Training of U.S. Army locomotive engineers [7]		200.0	([6])
Evaluate human factors implications of high speed and magnetically levitated trains			250.0
Total	544.76	1,436.1	1,511.0

[1] Prior Year Funding $10,000,000

[2] Prior Year Funding $261,073

[3] Prior Year Funding $312,711

[4] Prior Year Funding $299,000

[5] Prior Year Funding $46,082

[6] To be determined.

[7] Prior Year Funding $75,000, U.S. Army Funds.

ACCIDENT AND CASUALTY DATA

Mr. COUGHLIN. Please update for the record the rail casualty and accident data found on pages 135 through 138 of last year's hearing record.

[The information follows:]

SUMMARY OF ALL CASUALITIES BY TYPE OF ACCIDENT/INCIDENT AND TYPE OF PERSON

Type Accident/Person	% Of Total 1988	% Of Total 1989	Total Cases 1988	Total Cases 1989	...Killed.. 1988	...Killed.. 1989	..Injured.. 1988	..Injured.. 1989	..Illness.. 1988	..Illness.. 1989
TRAIN ACCIDENTS - RAIL EQUIPMENT ACCIDENT/INCIDENT CASUALTIES										
EMPLOYEE ON DUTY.....	.98	.87	278	241	12	12	263	227	3	2
EMPLOYEE NOT ON DUTY.	.05	.02	13	5	1	---	12	5	---	---
PASSENGER ON TRAIN...	.25	.24	72	65	---	---	72	65	---	---
NONTRESPASSER........	.42	.03	120	9	2	3	118	6	---	---
TRESPASSER...........	.02	.00	6	1	3	1	3	---	---	---
CONTRACTOR EMPLOYEE..	---	.01	---	2	---	---	---	2	---	---
TOTAL............	1.73	1.17	489	323	18	16	468	305	3	2
TRAIN INCIDENT CASUALTIES										
EMPLOYEE ON DUTY.....	11.67	11.20	3,298	3,085	16	17	3,228	3,016	54	52
EMPLOYEE NOT ON DUTY.	.07	.02	19	5	---	1	16	4	3	---
PASSENGER ON TRAIN...	.34	.28	95	77	2	4	93	73	---	---
NONTRESPASSER........	.19	.15	55	41	10	14	45	27	---	---
TRESPASSER...........	3.17	3.10	897	855	417	419	480	436	---	---
CONTRACTOR EMPLOYEE..	.06	.03	17	8	---	2	17	6	---	---
TOTAL............	15.51	14.78	4,381	4,071	445	457	3,879	3,562	57	52
NONTRAIN INCIDENT CASUALTIES										
EMPLOYEE ON DUTY.....	66.85	66.61	18,886	18,351	15	16	18,493	18,058	378	277
EMPLOYEE NOT ON DUTY.	1.40	1.39	396	383	---	---	387	378	9	5
PASSENGER ON TRAIN...	.54	.60	153	164	---	2	153	162	---	---
NONTRESPASSER........	1.26	1.13	357	312	3	7	354	305	---	---
TRESPASSER...........	.38	.35	107	97	28	14	79	83	---	---
CONTRACTOR EMPLOYEE..	.73	.86	206	237	1	2	204	234	1	1
TOTAL............	71.16	70.94	20,105	19,544	47	41	19,670	19,220	388	283
RAIL-HIGHWAY GRADE CROSSING ACCIDENT/INCIDENT CASUALTIES (EXCLUDED FROM ABOVE CATEGORIES)										
EMPLOYEE ON DUTY.....	.55	.77	154	211	---	4	153	206	1	1
EMPLOYEE NOT ON DUTY.	---	---	---	---	---	---	---	---	---	---
PASSENGER ON TRAIN...	.07	.29	19	79	---	---	19	79	---	---
NONTRESPASSER........	9.19	10.01	2,597	2,759	539	589	2,058	2,170	---	---
TRESPASSER...........	1.80	2.04	508	562	150	198	358	364	---	---
CONTRACTOR EMPLOYEE..	---	.01	---	2	---	---	---	2	---	---
TOTAL............	11.60	13.11	3,278	3,613	689	791	2,588	2,821	1	1
GRAND TOTALS BY TYPE OF PERSON										
EMPLOYEE ON DUTY.....	80.05	79.45	22,616	21,888	43	49	22,137	21,507	436	332
EMPLOYEE NOT ON DUTY.	1.51	1.43	428	393	1	1	415	387	12	5
PASSENGER ON TRAIN...	1.20	1.40	339	385	2	6	337	379	---	---
NONTRESPASSER........	11.07	11.33	3,129	3,121	554	613	2,575	2,508	---	---
TRESPASSER...........	5.37	5.50	1,518	1,515	598	632	920	883	---	---
CONTRACTOR EMPLOYEE..	.79	.90	223	249	1	4	221	244	1	1
TOTAL............	100.00	100.00	28,253	27,551	1,199	1,305	26,605	25,908	449	338

NOTE: Rail-highway crossing casualties include those occurring at both public and private crossings

TABLE 2

NONFATAL CASUALTIES TO EMPLOYEES ON DUTY EQUIPMENT ACCIDENTS/INCIDENTS[1]

	1984	1985	Percent Change	1986	Percent Change	1987	Percent Change	1988	Percent Change	1989[3]	Percent Change
Track	73	78	6.85	44	-43.59	45	-2.27	44	-2.22	51	+15.90
Equipment	44	36	-18.18	9	-75.00	14	55.56	23	53.33	7	-69.56
Human Factors	142	92	-35.21	115	25.00	146	26.96	154	5.48	134	-12.99
Other	52	41	21.15	49	19.51	21	-57.14	45	114.28	35	-18.60
Subtotal Excludes Rail-Highway Grade Crossings	311	247	-20.58	217	12.15	226	4.15	266	-	227	-14.66
Rail-Highway Grade Crossings[2]	86	82	-4.66	34	-58.54	73	114.71	67	-8.22	114	+70.15
Grand Total	397	329	-17.13	251	-23.71	299	19.12	333	11.37	341	+2.40

[1] Nonfatal casualties include injuries and illness. A rail equipment accident/incident is an event related to the opertion of on-track equipment which results in reportable damages exceeding an established amount. The threshold was $5,700 in 1989; $5,200 in 1987 and 1988; it was $4,900 in 1985 and 1986; in 1983 and 1984 it was $4,500; in 1981 it was $3,700.

[2] Only those rail-highway grade crossing accidents/incidents which exceed the reporting threshold for damage to rail property are included.

[3] 1989 totals are estimates based on preliminary data.

TABLE 3

FATALITIES TO EMPLOYEES ON DUTY IN RAIL EQUIPMENT ACCIDENTS/INCIDENTS[1]

	1984	1985	Percent Change	1986	Percent Change	1987	Percent Change	1988	Percent Change	1989[3]	Percent Change
Track	2	1	-50.00	0	-100.00	1	-	1	-	1	-
Equipment	0	0	-	0	-	1	-	-	-100.00	0	-
Human Factors	15	6	60.00	8	33.33	12	50.00	8	-33.33	3	-62.50
Other	2	0	100.00	0	-	2	-	2	50.00	8	+300.00
Subtotal Excludes Rail-Highway Grade Crossings	19	7	-63.16	8	14.79	16	100.00	11	-25.00	12	+9.09
Rail-Highway Grade Crossings[2]	3	2	-33.33	2	-	2	-	-	-100.00	4	-
Grand Total	22	9	-59.09	10	11.112	18	80.00	11	-33.33	16	+45.45

[1] Nonfatal casualties include injuries and illness. A rail equipment accident/incident is an event related to the opertion of on-track equipment which results in reportable damages exceeding an established amount. The threshold was $5,700 in 1989; $5,200 in 1987 and 1988; it was $4,900 in 1985 and 1986; in 1983 and 1984 it was $4,500; in 1981 it was $3,700.

[2] Only those rail-highway grade crossing accidents/incidents which exceed the reporting threshold for damage to rail property are included.

[3] 1989 totals are estimates based on preliminary data.

TABLE 4

RAIL EQUIPMENT ACCIDENTS/INCIDENTS BY CAUSE[1]

	PER MILLION MILES								PERCENT OF TOTAL							
	1986	Change	1987	Change	1988	Change	1989	Change	1986	Change	1987	Change	1988	Change	1989	Change
Track	1.79	-20.09	1.61	-10.06	1.56	-3.11	1.63	4.49	36.78	-1.37	35.44	-3.64	31.20	-11.96	33.10	6.09
Equipment	0.76	-22.45	.74	-2.63	.84	13.51	.80	-4.76	15.68	-3.68	16.25	3.64	16.78	3.26	16.34	-2.62
Human Factors	1.44	-17.71	1.47	-2.08	1.69	14.97	1.57	-7.10	29.56	1.62	32.31	9.30	33.79	4.58	31.86	-5.71
Other	0.63	-18.18	.50	-20.64	.59	18.00	.63	6.78	12.85	-.08	10.88	-15.40	11.77	8.18	12.86	9.26
Subtotal Excludes Rail-Highway Grade Crossings[4]	4.62	-19.37	4.32	-6.49	4.68	8.33	4.63	-1.07	94.89	-.62	94.90	.01	93.54	-1.43	94.16	0.66
Rail-Highway Grade Crossings[2]	0.25	-7.41	.23	-8.00	.33	43.48	.29	-12.12	5.11	13.05	5.10	-.20	6.46	26.67	5.84	-9.60
Grand Total	4.87	-16.83	4.55	-6.57	5.01	10.11	4.98	-0.60	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

[1] Nonfatal casualties include injuries and illness. A rail equipment accident/incident is an event related to the opertion of on-track equipment which results in reportable damages exceeding an established amount. The threshold was $5,700 in 1989; $5,200 in 1987 and 1988; it was $4,900 in 1985 and 1986; in 1983 and 1984 it was $4,500; in 1981 it was $3,700.

[2] Only those rail-highway grade crossing accidents/incidents which exceed the reporting threshold for damage to rail property are included.

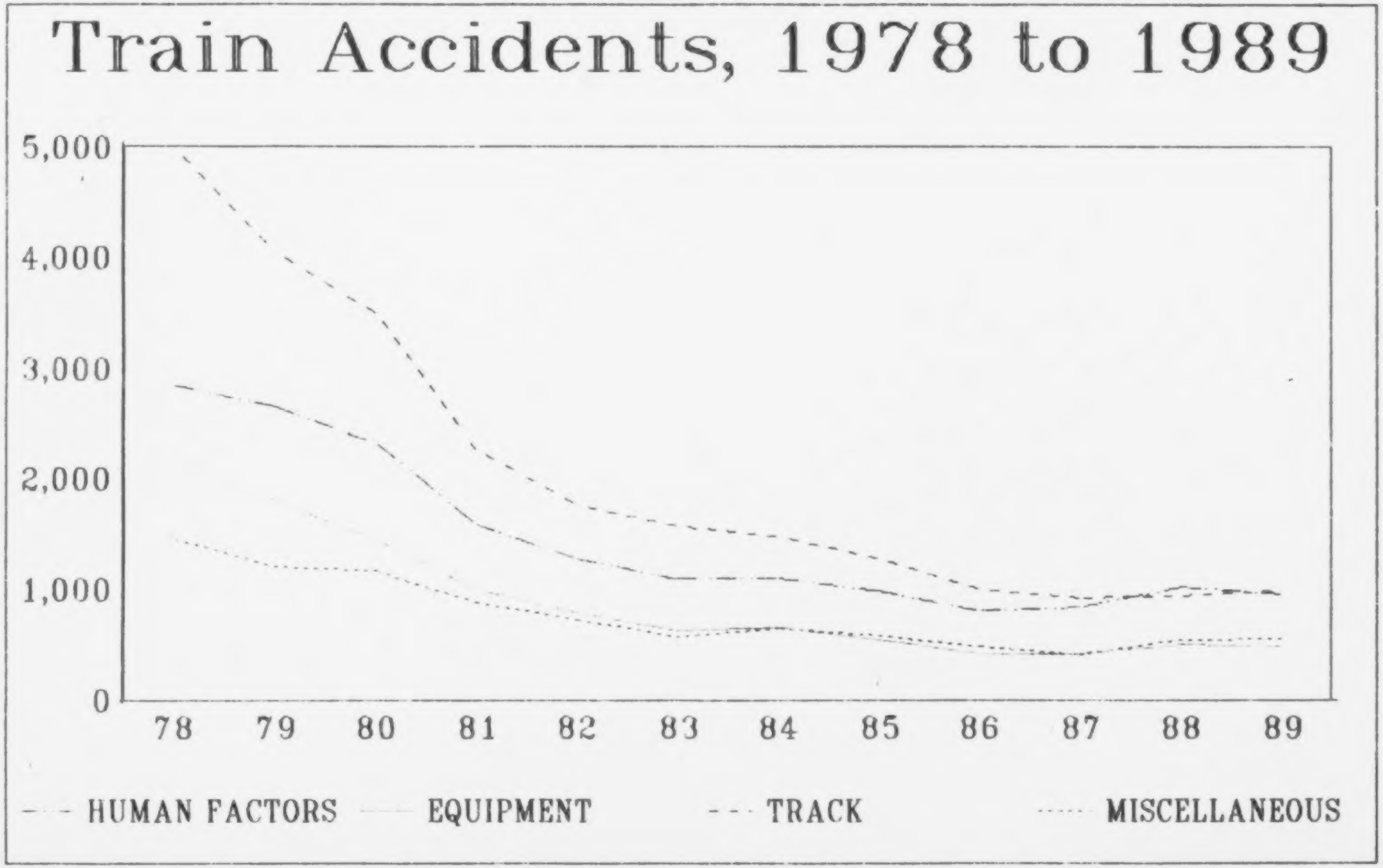
[3] 1989 totals are estimates based on preliminary data.

[4] Subtotals may vary due to rounding.

TRAIN ACCIDENT GRAPH

Mr. Coughlin. Please also update for the record the train accident graph on page 140 of last year's hearing record.

[The information follows:]



Train Accidents, 1978 to 1989

INSPECTION DATA

Mr. COUGHLIN. Please also update for the record the inspection data found on page 141 of last year's hearing record by adding a 1989 column.

[The information follows:]

INSPECTION DATA

	1987	1988	1989
Track:			
Number of inspections	19,446	18,528	17,960
Miles inspected	424,700	400,364	386,692
Records inspected	232,905	211,900	194,603
Defects recorded	147,903	125,628	155,465
Signal:			
Number of inspections	5,712	5,699	6,045
Units inspected	64,478	68,135	72,457
Records inspected	69,283	73,123	82,806
Defects recorded	11,130	12,246	11,514
Motive Power and Equipment:			
Number of inspections	23,576	22,499	21,527
Locomotives inspected	50,226	43,892	41,666
Cars inspected	1,141,428	1,145,565	1,064,043
Defects recorded	194,991	202,503	189,109
Operation Practices:			
Number of inspections	12,612	10,732	9,978
Complaints received	537	488	823
Defects recorded	5,546	6,016	6,314
Hazardous Materials:			
Number of inspections	8,335	7,880	8,069
Tank cars inspected	73,283	65,513	77,765
Defects recorded	17,050	17,948	16,904

CLASS I RR—HIGHEST AND LOWEST ACCIDENT RATES

Mr. COUGHLIN. Please update for the record the data on Class I railroads with the highest and lowest accident rates, as shown on page 147 of last year's hearing record.

[The information follows:]

	1989 accidents [1]	Accidents per million train miles
Railroads-lowest:		
Denver and Rio Grande Western	6	0.77
Kansas City Southern	9	.93
Atchinson, Topeka and Santa Fe	119	2.40
Amtrak	99	2.47
Louisiana and Arkansas Rwy	16	3.27
Railroads-highest:		
Chicago Northwestern	125	6.90
Grand Trunk Western	46	7.34
Elgin, Joliet and Eastern	12	6.54
Soo Line	98	10.84
Springfield Terminal [2]	27	20.58

[1] Preliminary summary
[2] Includes Boston and Maine

GRADE CROSSING SAFETY STATISTICS

Mr. Coughlin. Please update for the record the table on grade crossing safety statistics, as shown on page 148 of last year's hearing record.

[The justification follows:]

	Number of accidents	Number of fatalities	Number of injuries
Year:			
1989[1]	6,424	765	2,782
1988	6,527	689	2,515
1987	6,389	624	2,429
1986	6,396	616	2,458
1985	6,919	582	2,687
1984	7,281	649	2,910
1983	7,161	575	2,623
1982	7,748	607	2.637
1981	9,295	728	3,293
1980	10,611	833	3,890
1979	12,509	883	4,378
1978	13,316	1,064	4,447
1977	13,101	992	4,863
1976	12,925	1,115	4,740
1975	12,071	917	3,860

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[1] Projected preliminary data for January-December 1989

OPERATION LIFESAVER

Mr. Coughlin. Please also update the information on Operation Lifesaver found on page 149 of last year's hearing record.

[The information follows:]

Funds expended or projected to be spent by FRA in support of highway-rail crossing programs include the following:

	1987	1988	1989	1990	1991
Operation Lifesaver handout materials[1]	$ 4,440	$ 6,250	$ 7,400	$ 2,500	$ 2,500
Grants to Operation Lifesaver, Inc.[2]	299,000		150,000	100,000	100,000
Operation Lifesaver National Symposium[3]		5,500			
From FRA's Information Processing Budget[4]	273,000	361,800	243,800	241,000	272,000
Crossing Inventory Forms[5]		1,200		1,000	
Texas A&M University (research)[6]		76,328		60,000	
Consultant Services[7]		9,600		30,000	
Research[8]	16,300			100,000	100,000
Traffic Safety Summit[9]				25,000	

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1. Promotional materials such as coloring books and post-it note pads have been distributed by FRA personnel when making presentations to schools and community groups. In FY 1989, FRA purchased a full range of audio-visual materials (movies and slide-tape shows) for use when making presentations.

2. These grants assist OLI in establishing initial inventories of OL presentation materials. Brochures introducing OL, promoting enforcement, targeting hazardous materials truck drivers and elderly drivers, coloring books for grade school students, a variety of public service announcements for radio and television and a generic movie are among the items currently being developed.

3. The FRA was actively involved in planning and partially funded the 1984, 1986 and 1988 Symposiums, and is assisting in planning for the 1990 Symposium.

4. The amounts represent the portion of FRA's information budget which is expended in support of the U.S. DOT/AAR National Rail-Highway Crossing Inventory and the crossing accident module

of the Railroad Accident/Incident Reporting System. Processing includes data collection and control, retention and report production.

5. These forms are provided to, and used by, states and railroads for submitting changes to the U.S. DOT/AAR National Rail-Highway Crossing Inventory.

6. Contracted effort to review the efficacy of Texas' 1-800 number call-in procedure whereby callers report observed problems (e.g., apparent warning device malfunctions) at highway-rail crossings to public safety authorities. A report has been prepared and distributed promoting wider adoption of the Texas system. In FY 1990, the FRA will contract for an analysis of calls received, the timing and findings of follow-up, and their cumulative potential for predicting accident locations.

7. Section 159 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directs the DOT "to conduct a study of these needs [national highway-railroad crossing improvement and maintenance needs and how these crossing needs can be addressed in a cost-effective manner] and report to the Congress by April 1989, on the results and recommendations." The FRA contracted for some expert assistance in preparing its response to the lead agency's (FHWA's) calls for input. A report was sent to the Congress in April 1989. Further consultant services (in FY 1990) will address small railroads vis-a-vis crossing safety programs and a review of accident investigation procedures.

8. In FY 1987, a project to assist state highway authorities and railroad officials in allocating resources (funds), sponsored jointly by FRA and FHWA, was completed and reports were published by the U.S. DOT's Transportation System Center, Cambridge, Massachusetts.

FY 1990 research will reexamine potential effectiveness and cost issues related to the possibility of placing retro-reflective materials on the sides of railroad rolling stock in order to alert night time motor vehicle drivers to the presence of a train at a highway-rail crossing. This possibility was last examined in 1981, but the finding was that the costs of maintenance (cleaning and periodic replacement) far outweighed the potential benefits. Claims regarding new retro-reflective materials stress brighter reflectivity (higher effectiveness) and lower cleaning costs (surfaces less prone to dirt accumulation).

FRA may also participate in funding a demonstration of low cost passive devices (signs and reflectors) for use at rural highway-rail crossings.

In FY 1991 FRA will investigate some innovative augmentation to existing warning devices, e.g., audible devices for crossings currently equipped with only passive signs, and/or flood lighting for crossings equipped with automatic warning devices.

9. FRA is participating in the Secretary of Transportation's Traffic Safety Summit. This meeting, scheduled for April 1-3, 1990 in Chicago, will bring together the nation's top law enforcement officers to discuss their problems and concerns vis-a-vis law enforcement and traffic safety on the nation's highways. FRA's participation has assured some consideration will be afforded to safety and enforcement of laws at highway-rail crossings, a major concern of Operation Lifesaver.

In FY 1989, the FRA spent $7,400 for Operation Lifesaver (OL) audio visual materials (films, videotapes and slide-tape shows) which promote rail-highway crossing safety and trespasser prevention. These materials are used by FRA personnel when making presentations in schools, local assemblies, clubs, etc. FRA has cut back on the production of handout materials, obtaining these instead through Operation Lifesaver, Inc., as do other OL presenters. (For the most part these materials are produced using funds from the FRA grants.)

Field personnel continue to assist by participating in local speakers' bureaus and by setting up and staffing displays and arranging meetings between industry and local officials. FRA's safety field staff continues to make approximately 600 contacts and presentations for Operation Lifesaver annually and reach directly about 100,000 individuals.

FRA participated in the planning and promotion of the 1989 National Highway-Railroad Conference in San Diego last July. This conference was more engineering-oriented than the previous year's public education oriented National Operation Lifesaver Symposium held in Virginia Beach. FRA is currently involved in the planning for a 1990 National OL Symposium which will be held in Couer d'Alene, Idaho in July.

In FY 1989, the FRA made a $150,000 grant to Operation Lifesaver, Inc. (OL, Inc.) which is being used to develop, produce and distribute much-needed Operation Lifesaver promotional and instructional materials. This grant was made from FRA's Research and Development funds. Grants of $100,000 are budgeted for 1990 and for 1991.

Federal Highway Administration (FHWA) funding of up to $250,000 annually beginning in FY 1988 has been authorized under Section 130 of the Department of Transportation and Related Agencies Appropriations Act, 1988. These monies are now available to Operation Lifesaver, Inc. They make a sizable contribution to the administrative cost of coordinating and promoting a national resource center and a national program.

The Board of Directors of OL, Inc., is comprised of members from the Association of American Railroads, Amtrak, the Railway Progress Institute, the National Association of Governors' Highway Safety Representatives and an independent member. This Board is intended to oversee and set policy for OL, Inc. It is not feasible for them to provide day-to-day management.

Current financial contributors include the Association of American Railroads ($35,000), the Railway Progress Institute ($12,000), Amtrak ($45,000), others ($12,000) and some interest income ($6,000). In-kind services and participatory contributions have come from McDonald's, Amoco, the American Automobile Association, the American Association of Retired Persons, the Brotherhood of Railway Signalmen and the United States Postal Service. Expressions of interest being actively pursued at this time have come from General Motors and the insurance industry.

MAGLEV AND HIGH-SPEED RAIL FUNDING

Mr. COUGHLIN. You are requesting $6.15 million in fiscal year 1991 for Maglev and high speed rail technology R&D. Your justification states that much of this work will be based upon a Congressional report on Maglev which is to be submitted in June 1990. How did you base your budget request on a report which hasn't yet been completed?

Mr. CARMICHAEL. It was an engineering approach to previous projects and starting a project of this magnitude, the numbers came out after much research and much discussion.

Mr. COUGHLIN. Do you have anything different from that?

Mr. KRICK. I think the answer to the other part of the question was what percent was going to be contracted out, and it's our intent to contract out the maximum that we can. We'll probably also be using some interagency transfers as well.

Mr. CARMICHAEL. We're talking about 90 percent plus.

Mr. COUGHLIN. For the record, provide a summary of each contract to be let, including its subject, estimated award date, and period of performance.

[The information follows:]

For all of the contracts planned, the estimated award date is the first quarter of FY 1991. The estimated completion date is fourth quarter, FY 1992. The FRA is in the process of developing specific plans for detailed contract packages. This process will be completed later this year following industry workshops designed to obtain private sector input. We plan to cover the following areas in our contract packages:

TRANSPORTATION AND ENVIRONMENT

Comprehensive Market Feasibility Study.
Critical Issues Analysis Methodology.
Ridership and Revenue Sources.
Maglev Costing Methods.
Maglev Network Economics.

VEHICLE SYSTEMS

Vehicle Safety Requirements.
Propulsion Systems Assessment.
Levitation Systems Assessment.
Vehicle Design.

GUIDEWAY AND CONTROL SYSTEMS

Maglev Guideway Design Safety.
Maglev Train Control Safety.
Maglev Guideway Structural Study.
Maglev Guideway Structural Foundation Study.
Train Control Failure Mode Study.
Maglev Diverging Route Structure Study.

SYSTEMS INTEGRATION

Safety Performance Evaluation of Proposed Florida Maglev System.
Human Factors Implications of Maglev Operations.
Influence of Maglev Operating Speed on Adjacent Transportation and Land Use.
Development of Maglev Strategic Plan.
Maglev Vehicle Dynamics Study.
Maglev Guideway Geometry Study.
Study of Environmental Effects on Maglev Vehicle Performance.

MAGLEV MARKET FEASIBILITY STUDIES

Mr. **Coughlin**. Included in this request is $400,000 for a comprehensive market feasibility study of potential high speed Maglev applications. How many staff years of analysis is this money expected to finance? Is that adequate for a comprehensive review?

Mr. **Carmichael**. I'd like Mr. Krick to answer that as the expert.

Mr. **Krick**. We think that the $400,000 is a pretty minimal amount. Actually, there is another $200,000 in there as well for some economic study activities.

We would probably put on the order of 2 man years of inhouse labor as well. We may have to increase the amount that goes into the market feasibility study. We will know a little better after we finish this current June report.

Mr. **Coughlin**. You are also requesting $500,000 to develop a long range strategic plan and a project master plan for Maglev implementation. Is this not premature since the market feasibility studies and technology studies have not yet been completed?

Mr. **Carmichael**. We have done, as I mentioned earlier, quite a few corridor studies and feasibility studies for high speed rail and for Maglev around the country.

The next step that was brought up here this morning is are we thinking big enough. And is $6 million big enough. And if this technology is that dramatic, how do we approach it. So, we must look on at Maglev as a potentially totally new system of transportation in the United States.

So, the long range plan, if it is that, you have to assume that and you can always back up from that, but if it is that, then you have got to have a well developed long range strategic plan. Then you know the magnitude of the project and the value of the project.

Mr. **Coughlin**. In a recent letter to the Maglev-ground problems, it was stated in the 1970s, " after ten years of expert and careful study, the [DOT office of high speed ground transport] was stymied by a difficulty with high speed passenger transport on the ground that has yet to be overcome. This has to do with aerodynamics and the certainty that there will be frequent weather-related problems, foreign object strikes, and trash collisions on any ground guideway". Would you comment on this claim?

[The information follows:]

The Federal Railroad Administrator replied by letter to the New York Times Editorial Page Editor rebutting the letter. In studies conducted between 1966 and 1975, the FRA did not find any problems to preclude a safe maglev transportation system. FRA does not agree that it is necessary to put maglev trains in tunnels. Elevated guideways and systems which detect foreign objects can provide an effective alternative to minimizing vandalism and objects falling on the guideway. Localized protection may be required as with railroads today. Though aerodynamic effects become more important at high speeds, it is certainly within present technology to maintain aerodynamic stability. The principal reason that FRA suspended research in maglev and other advanced high speed ground transportation systems in 1975 was that budget priorities were shifted to the then more immediate problems of financially troubled railroads.

[A copy of the letter follows:]

Mr. Jack Rosenthal
Editorial Page Editor
The New York Times
229 West 43rd Street
New York, New York 10036

Dear Mr. Rosenthal:

The letters to the Editor by Messrs. L. Fletcher Prouty (Magnetic Trains Could Mean Safety Nightmares, December 30, 1989) and Frederick S. Lightfoot (Wrong Way to Go, December 30, 1989) contained several misconceptions which I want to address.

I agree with Mr. Prouty's observation that the question of safety must be answered first. In fact, it is my contention that safety must be designed into any transportation system from the beginning, addressing all of the questions about safety, those that he raised, and others as necessary. In studies conducted between 1966 and 1975, the Department of Transportation did not find any problems to preclude a safe magnetic levitated transportation system. I do not agree that it is necessary to put the systems in tunnels. Elevated structures and dedicated guideways can be an effective means of minimizing vandalism and objects falling on the guideway.

Mr. Prouty would also limit speeds of high speed ground transport systems to a "zone of assured safety," based on the safety records of the Japanese and French systems, which have top speeds of about 160 to 180 miles per hour. They do indeed have excellent safety records. However, I believe that this is more a result of their attention to details that can result in unsafe operation, than on the specific maximum operating speed of the system. Indeed, the French recently attained a new speed record with their TGV of over 299 miles per hour. They apparently do not feel their system is only safe at 187 miles per hour and are conducting tests prior to further speed increases for their revenue service trains.

With regard to Mr. Lightfoot's letter, I take exception to his implication that superconductivity had something to do with Europe's decisions not to use maglev. The maglev system now being tested in Europe does not use superconducting magnets for its levitation. It uses electromagnets on board the vehicle which do not require super cooling. Mr. Lightfoot is also wrong in his statement that, "...extremely low superconductivity temperature for hundreds or thousands of miles of cable..." would be required. Even in the maglev system, which does require supercooling, the supercooled magnets are located on the vehicle, not the guideway. The European countries' decisions to link their cities by a high speed rail network rather than maglev was a result, I believe, of having an extensive railroad system already in place, which could be upgraded and supplemented with a compatible high speed system. Such a decision, recognizing the difficulty in getting agreement among several countries for an all-new, common transportation system, is understandable. But I do not believe it was in any way due to the daunting engineering problems implied by Mr. Lightfoot. Anyone who believes that should travel to West Germany and see and ride their maglev system. It is real. It is operating and ready for implementation. I know. I rode on it.

In December, the German government decided to install a maglev system between the Cologne-Bonn and Dusseldorf airports as a way of solving their airport congestion problems. The question is not whether maglev is a reality, but rather whether we will implement and stimulate maglev technology development in the United States. I believe that maglev transportation systems are a safe and effective part of the solution to our nation's airport and highway congestion problems and that maglev should be strongly considered in future transportation plans.

Sincerely,
Original Signed By
Gilbert E. Carmichael

Gilbert E. Carmichael
Federal Railroad Administrator
Washington, D.C.

SUPERCONDUCTING MATERIALS IN MAGLEV

Mr. COUGHLIN. To what extent does the technical and economic feasibility of Maglev systems depend upon high temperature superconducting materials which have yet to be fully developed and put into service?

Mr. CARMICHAEL. High temperature superconducting materials, I have been told by several different sources in this technology, that it will be great when it occurs, and it will contribute to a small percentage of efficiency to the existing technology.

[Additional information follows:]

Electromagnetic, or "attractive," maglev systems do not depend on superconductivity at all—high temperature or low temperature. Electrodynamic, or "repulsive," maglev systems do rely on superconducting magnets but not necessarily on high temperature superconductivity. When high temperature superconductivity becomes available in a practical way, the efficiency of maglev will improve. Low temperature superconductivity can be used in maglev vehicles with the use of liquid helium cryogenic cooling, a technology reasonably well advanced in the U.S. In other words, maglev—even superconducting maglev—can work well without high temperature superconductivity.

APPROPRIATIONS FOR MAGLEV STUDIES

Mr. COUGHLIN. In May 1989, the FRA Chief Counsel issued a legal opinion on FRA's authority to utilize appropriations for high speed rail engineering studies, operating costs of high speed rail commissions, or development/construction costs of such systems. Please insert for the record a copy of that opinion, and comment on whether that is still FRA's position.

[The information follows:]

Attached is a copy of the opinion. FRA has not altered its position.

U.S. Department
of Transportation
Federal Railroad
Administration

Memorandum

Date MAY 22 1989 Reply to Attn. of

Subject High Speed Rail Authorizations

S. Mark Lindsey

From S. Mark Lindsey
Chief Counsel

To William R. Ballerini
Director of Budget

This is in response to your May 9, 1989, memorandum in which you sought a legal opinion from this office as to whether "FRA has the authority for appropriations for the high speed engineering studies, operating costs of the Bi-State Commission and for construction of a high speed rail system." It is our opinion based on a review of the relevant authorization and appropriation acts, and such other materials we deemed appropriate, that FRA does not have authority under existing law for any of these activities.

The authorization for FRA's high speed rail activities is found in title IX of the Rail Passenger Service Act at 45 U.S.C. 651-658 (the "Act"), which was enacted as part of the Passenger Railroad Rebuilding Act of 1980 (Pub. L. No. 96-254, 94 Stat. 399, 410). The Act directs FRA, in cooperation with Amtrak, to develop a method for evaluating rail corridors; to establish a priority ranking of corridors; to submit a final corridor evaluation report to both Houses of Congress (and supplements as appropriate); and to encourage the private sector development of potential rail passenger corridors by helping to remove institutional and legal barriers to such development and by coordinating the expenditure of Federal funds in contiguous corridors with private sector corridor development. (§§ 1001, 1003, 1005) In addition, Amtrak was authorized to develop engineering and design plans to the extent necessary to provide accurate information as to the costs and benefits of instituting new service in identified corridors. (§1002) To fund these activities the Act authorized the appropriation to the Department of not to exceed $38 million for the fiscal year ending September 30, 1981, which was to be used by the Secretary for the evaluation of corridors under sections 1001 and 1003 and by Amtrak in preparing design and engineering plans. Congress appropriated $4 million for these purposes in the 1981 Department of Transportation and Related Agencies Appropriations Act (Pub. L. No. 96-400, 94 Stat. 1681).

I believe it is clear from this brief recitation of the pertinent provisions of the Act that FRA's authority in the area of high speed rail is extremely limited and directed entirely towards analyzing potential rail corridors, assembling reports, and submitting the information to the Congress. FRA carried out these responsibilities through the completion, in cooperation with Amtrak, of draft and final corridor evaluation reports (the final evaluation was submitted to Congress in April, 1981), and through several grants to State and regional high speed rail entities which conducted additional feasibility studies. The Act does not authorize FRA to fund detailed engineering studies, the operating expenses of any particular State or regional high speed rail organization, or the actual construction of any particular high speed rail project. Without statutory authority, FRA cannot undertake any of these activities. FRA's role can best be described as information gathering and not project implementing.

A related concern, which also affects FRA's ability to undertake any high speed rail activities at this point, is the fact that the authorization for appropriations provided only for the appropriation of funds in the fiscal year ending September 30, 1981. (§1008) Four million dollars were appropriated, and we understand that all of these funds have now been obligated. No authorization was provided for the appropriation of funds in fiscal years 1982 and beyond. Accordingly, no current authorization for the appropriation of funds to FRA for high speed rail activities exists.

I hope this information fully addresses your inquiry. If you have any additional questions or concerns, please do not hesitate to contact me.

FLORIDA MAGLEV PROJECT

Mr. COUGHLIN. According to schedule data provided last year, preliminary safety standards for the Florida high speed rail project were to be submitted to FRA for review by December 1989. Have you reviewed and approved those standards? What are the significant safety provisions?

[The justification follows:]

Safety standards for the Florida High Speed Rail Project have not yet been developed. In addition to the existing regulations for safety for conventional railroads, significant safety provisions may include operator qualification programs, grade crossings, environmental considerations, crashworthiness and interior design for passenger safety, track standards, and signal systems.

TTC ENVIRONMENTAL CLEANUP COSTS

Mr. COUGHLIN. You are requesting $1.5 million to begin the environmental cleanup of a waste water lagoon at the Transportation Test Center in Pueblo, Colorado. What is the problem at the site, and why does your justification state that "through a discovery process, the ultimate cleanup cost will be determined."?

[The information follows:]

The problem of the waste water lagoon at the Transportation Test Center (TTC) began at the time of construction when cleaning solvents and waste water were discharged through floor drains in the Central Services Building (CSB) into an open storage pond on the test center property. Waste water from the Rail Dynamics Laboratory (RDL) initially drained into an open ditch but was later discharged into the same open storage pond now referred to as the waste water lagoon. This practice was discontinued when the Colorado Department of Health (CDOH) compliance order was issued. The waste water lagoon is not the only environmental problem at the TTC and the requested funds for cleanup will begin to address other problems as well as the lagoon cleanup. The extent of cleanup work is contingent in part on the final decision of the CDOH on the closure plan. Other sites are yet to be fully explored, and final estimated costs for cleanup will depend on what is "discovered" in the process of soil borings and other investigations of site contamination. The extent of contamination beneath the underground storage tanks, and the area of contamination at other disposal sites cannot be determined visually, but will be determined in the final plan.

Mr. COUGHLIN. Who was responsible for creating the problem?

[The information follows:]

The creation of the environmental problems at the Transportation Test Center (TTC) are shared between the Association of American Railroads (AAR) and the FRA, depending on the specific conditions for each problem. FRA is the designated owner of the facility and managed the facility through September 1982. AAR took over operation of the facility October 1, 1982 under a care, custody and control agreement. Some of the environmental problems are associated with devices, acceptable at the time of installation, such as PCB filled electrical transformers, but were later determined to present health risks when encountered in certain situations. Other facilities like the waste water lagoon were created at the time of construction but the addition of contaminants continued after the AAR assumed control of the test center.

Mr. COUGHLIN. Have any studies, including those commissioned by the State of Colorado, estimated the total cleanup cost, and if so, what were those estimates?

Mr. CARMICHAEL. At the Transportation Test Center in Pueblo, I think we did a study and showed a neighborhood of about a $1.5 million cost for cleanup. Colorado's estimate is $4.5 million or somewhere near there.

Mr. KRICK. Actually, the studies that were done our contractor did for us. Colorado, I do not think, has made an estimate. Our contractor's estimate of what Colorado was asking for was the higher value that Mr. Carmichael mentioned.

Mr. COUGHLIN. The total cost will be more than $6 million?

Mr. KRICK. No, sir. There are several aspects of the cleanup at the test center. One is the waste water lagoon that Mr. Carmichael talked about a little bit ago.

There are several other locations out there that need to be cleaned up. When we talk about the total cleanup at the Test Center there have been numbers that have ranged anywhere from $4 million to $5 million.

We are intending to cost share a considerable amount of that with the Association of American Railroads. So, the total Federal cost has not yet been defined. Those negotiations are still going on.

TTC COMPLIANCE ORDER

Mr. COUGHLIN. For the record, please provide a copy of the compliance order issued by the Colorado Department of Health to clean up the waste water lagoon at TTC.

[The information follows:]

A copy of the compliance order issued by the Colorado Department of Health to clean up the waste water lagoon at TTC is attached.

STATE OF COLORADO

COLORADO DEPARTMENT OF HEALTH
4210 East 11th Avenue
Denver, Colorado 80220
Phone (303) 320-8333

Roy Romer
Governor

Thomas M. Vernon, M.D.
Executive Director

December 15, 1987

CERTIFIED MAIL# P 297 703 521
Return Receipt Requested

Mr. Paul Schwartz
General Manager
Association of American Railroads.
Transportation Test Center
DOT Test Track Raod
Pueblo, Colorado 81001

RE: Hazardous Materials and Waste Management Division Compliance Order
NO. 87-12-10-01
Service of Compliance Order
- and -
Invitation to Informal Conference

Dear Mr. Schwartz

You are hereby served with Compliance Order No. 87-12-10-01 issued by the Hazardous Materiale and Waste Management Division of the Colorado Department of Health ("the Division") pursuant to Section 25-15-308 (2) C.R.S. (1982). This Order is based upon findings by the Division that the Transportation Test Center has violated the Colorado Hazardous Waste Act, Sections 25-15-301 through -313, C.R.S. (1982 and 1987 Supp.) ("the Act") as more particularly described in the enclosed Compliance Order.

Please take note that the Division is willing to meet with you after your receipt of this Order to discuss the Order and receive any evidence or arguments you may have concerning the existence and gravity of the violation(s). I urge you to take advantage of this opportunity to discuss this matter with the Division. If you do not request a meeting within ten (10) calendar days of receipt of this Order you are hereby notified that the enclosed Compliance Order will then become effective immediately.

You are also hereby notified that the Division intends to seek a civil penalty from the Association of American Railroads in this matter as authorized by sections 25-15-308 and -309 of the Act. The amount of the penalty will be influenced by a variety of factors, including the seriousness of the violation(s), the potential for harm resulting from the violation(s) and the performance of the Association of American Railroads in quickly complying with the terms of the enclosed Compliance Order. A copy of the penalty policy used by the Division will be made available to you upon request. The Act authorizes the Division to seek penalties of up to $25,000 for each day of each violation of the Act, the regulations implementing the Act, or the enclosed Order.

Should you desire to schedule a meeting or to discuss the technical aspects of this matter, please call Jim Kiefer at the Division (telephone 303/331-4853). If you have retained legal counsel, he or she may contact Jerry W. Goad at the Colorado Attorney General's Office (telephone 303/866-5058) to discuss legal aspects of the case.

I urge you to give this matter your immediate attention.

Sincerely,

Frederick R. Dowsett

Frederick R. Dowsett,
Unit Leader
Monitoring and Enforcement
Hazardous Materials and
Waste Management Division

Enclosure:

Compliance Order No. 87-12-10-01

cc w/encl: Charles Brinkman, EPA

FRD:JK/lp
2044K, 26-27

BEFORE THE HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION

DEPARTMENT OF HEALTH

STATE OF COLORADO

COMPLIANCE ORDER No. 87-12-10-01

IN THE MATTER OF TRANSPORTATION TEST CENTER

This Compliance Order is being issued by the Colorado Department of Health through the Hazardous Materials and Waste Management Division ("The Department") to the Federal Railroad Administration and to the Association of American Railroads pursuant to the Department's authority under section 25-15-308, C.R.S. (1982 and 1987 Supp.)

General Findings

1. The Federal Railroad Administration, an agency of the United States Department of Transportation, leases the Transportation Test Center at DOT Test Track Road in Pueblo, Colorado ("the facility"). The facility is a testing and research facility operated by the Association of American Railroads.

2. The Transportation Test Center notified as a generator of hazardous waste on December 12, 1985, by submitting EPA Form 8700-12 to the Department.

3. On September 10, 1986, inspectors from the Department visited the Transportation Test Center facility to determine compliance with the Colorado Hazardous Waste Regulations, 6 CCR 1007-3.

FIRST VIOLATION

(Storage and Disposal of Hazardous Waste Without a Permit)

4. The General Findings set forth in paragraphs 1 through 3 of this Compliance Order are incorporated by reference as though fully set forth herein.

Findings of Fact

5. During the inspection on September 10, 1986, Mr. Mark White, Senior Facilities Engineer, told inspectors for the Department that past management practices allowed oil and solvents such as 1,1,1-trichloroethane to spill on floors in the maintenance areas. He said that the wastewater from washing these floors collects in an unlined lagoon (surface impoundment).

6. On June 2, 1987, the Department received a copy of the report of analysis for samples from the lagoon (surface impoundment) that the Transportation Test Center facility had sent to Cenref Labs for analysis on March 11, 1987. The report of analysis showed that samples from the lagoon (surface impoundment) contained 2400 ug/kg of trans 1,2 - trichloroethylene, 1100 ug/kg of 1,1,1 - trichloroethane, 360 ug/kg of trichloroethylene, 540 ug/kg of tetrachloroethylene, and 320 ug/kg of toluene.

7. The Transportation Test Center has never applied for or received a permit or interim status from the Department or EPA for the disposal and/or storage of hazardous waste.

Conclusions of Law

8. 6 CCR 1007-3, Section 261.31 defines the spent solvents 1,1,1 - trichloroethane (F001), trichloroethylene (F001), tetrachloroethylene (F001), and toluene (F005) as listed hazardous wastes.

9. 6 CCR 1007-3, Section 260.10 defines storage as "the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of hazardous waste."

10. 6 CCR 1007-3, Section 260.10 defines disposal as "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste, or any constituent thereof, may enter the environment, or be emitted into the air or discharged into any waters, including groundwaters."

11. The facility's storage of hazardous waste in the lagoon (surface impoundment) and discharge of hazardous waste into the unlined lagoon (surface impoundment) without a permit or interim status from the Department or EPA for the storage and/or disposal of hazardous waste constitutes a violation of Section 25-15-308 (1)(b), C.R.S. (1987 Supp.) and 6 CCR 1007-3, Section 100.10.

SECOND VIOLATION
(Failure to Notify)

12. The General Findings, Findings of Fact and Conclusions of Law set forth in paragraphs 1 through 11 of this Compliance Order are incorporated by reference as though fully set forth herein.

Findings of Fact

13. The Transportation Test Center, by submitting EPA Form 8600-12 to the Department on December 12, 1985, notified the Department that the facility was a generator of hazardous waste. The facility has never notified the Department that it stores and/or disposes of hazardous waste in an unlined lagoon (surface impoundment), nor has the facility ever applied for or received interim status or a permit to store and/or dispose of hazardous waste in an unlined lagoon (surface impoundment) from either the Department or EPA.

Conclusions of Law

14. 6 CCR 1007-3, Section 99(d) states that "No identified or listed hazardous waste subject to these regulations may be transported, treated, stored, or disposed unless notification has been given as required under this Part."

15. The facility's storage and disposal of hazardous waste in the lagoon (surface impoundment) without notifying the Department or EPA constitutes a violation of 6 CCR 1007-3, Section 99(d).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, and pursuant to Section 25-15-308 C.R.S. (1982 and 1987 Supp.), the Federal Railroad Administration and the Association of American Railroads are hereby ordered to comply with the following:

16. Immediately cease all disposal of hazardous waste at the facility.

17. Immediately come into compliance with all applicable requirements of 6 CCR 1007-3, including but not limited to , Parts 262, 263, 264, 265, 266, 267, 99 and 100.

18. Within 10 days of receipt of this Order, submit to the Department plans for future management of hazardous waste at the Transprotation Test Center facility. If the Transportation Test Center facility plans to operate as a TSD facility in the future, a permit application in accordance with 6 CCR 1007-3, Part 100 shall be submitted to the Department within 30 days of receipt of this Order. If the facility does not plan to operate as a TSD facility in the future, a closure plan for the lagoon (surface impoundment) in accordance with 6 CCR 1007-3, Part 265.112 shall be submitted to the Department within 30 days of receipt of this Order.

19. Within 10 days of receipt of this Order, submit for Departmental approval a plan to identify all hazardous waste generated and stored at the facility.

20. Within 10 days of receipt of this Order, submit to the Department a statement describing all tests done to date to monitor the extent of environmental contamination resulting from the unauthorized storage and/or disposal. Include all actions taken to date to control, contain, or clean-up the contamination.

21. Within 30 days of receipt of this Order, submit for Departmental approval, a plan to determine the extent to contamination resulting from all unauthorized storage and/or disposal of hazardous waste. The plan shall be structured by phased actions that the Transportation Test Center will take over time in order to come into compliance with 6 CCR 1007-3.

A. The initial phase shall detail all available geological data of the site, including a regional and site hydrogeological assessment, site topography, soil types, airborne particulate analysis, and surface run-off data. Review of the results of this initial phase of investigations by the Department will determine what additional investigations are necessary.

B. The second phase shall include details of the proposed systematic sampling to be done at the site. This plan shall include, but not be limited to, the following information: a map to scale showing the orientation of the soil sampling grid; depths of sampling intervals taken at each sampling point; sampling equipment used; locations of background samples taken; placement and depths of groundwater monitoring wells; well design and construction; and sampling and analytical techniques, including decontamination measures. The Department reserves the right to request split samples of all soil and groundwater samples taken during the implementation of this plan. If the second phase sampling results indicate possible ground water contamination, the facility shall submit a ground water quality assessment plan meeting the requirements of 6 CCR 1007-3, Section 265.93.

C. The third phase of the plan shall describe a proposal for removing and disposing of all hazardous waste and environmental contamination in accordance with 6 CCR 1007-3, Section 262 and 265. The plan shall also include provisions for testing that will demonstrate that all environmental contamination resulting from the Transportation Test Center's unauthorized storage and/or disposal of hazardous waste has been removed.

D. Chemical analyses under phases two and three shall include, but not be limited to: organic priority pollutants, total and E.P. Toxic silver, lead, chromium, cadmium, arsenic, barium, mercury, and selenium. Total metals shall be run for copper, zinc, and nickel. In addition to the above parameters, aqueous samples should be anaylzed for pH, and specific conductivity.

22. Within 60 days of the approval of the plans by the Department, properly clean-up and dispose of all hazardous wastes, including all environmental contamination, in accordance with 6 CCR 1007-3, Sections 262 and 265.

23. Within 75 days of the approval of the disposal plan by the Department, the Transportation Test Center shall submit to the Department documentation that the facility is in compliance with this Order, along with 6 CCR 1007-3, with respect to the management and storage of hazardous waste.

24. The Department reserves the right to impose such further conditions as necessary to ensure clean-up of the site and compliance with the Act, the regulations, and this Compliance Order.

NOTICE OF LIABILITY FOR CIVIL PENALTIES AND INJUCTIVE RELIEF

Section 25-15-309. C.R.S. (1982) provides that any person who violates the Hazardous Waste Act, sections 25-15-101 to 313, C.R.S. (1982 and 1987 Supp.) the regulations implementing the Act, 6 CCR 1007-3, or any compliance order of the Department of Health which is not subject to a stay pending judicial review, shall be subject to a civil penalty of not more than $25,000 per violation for each day during which such violation occurs. The Colorado Department of Health may request that the Attorney General bring suit for injuctive relief or civil penalties or both for failure to comply with section 26-515-308 and this Order. The Compliance Order deadlines will remain as stated herein unless modified subsequent to the informal conference.

NOTICE OF EFFECTIVE DATE OF ORDER

Unless you request an informal conference pursuant to the following paragraph, this Order shall then become effective immediately. Should you request an informal conference, the above compliance deadlines, except those included in paragraphs 16, 17, 18 and 19, are suspended pending further notice to be issued after such a conference.

OPPORTUNITY TO REQUEST INFORMAL CONFERENCE

If you wish to contest any findings made herein or explain any circumstances that tend to mitigate the violation(s), you may request an informal conference within 10 calendar days of the receipt of this Compliance Order. The Division will schedule a conference to be held within 20 days of your receipt of this Compliance Order. Although this conference is an informal proceeding, you may, if you so desire, have legal counsel attend with you. Should you wish to schedule an informal conference, or should you have any questions regarding this Compliance Order, contact:

James Kiefer
Hazardous Waste Control Section
Hazardous Materials and Waste Management Division
Colorado Department of Health
4210 E. 11th Ave.
Denver, Colorado 80220
(303) 331-4853

Date: December 10, 1987

By:
Frederick R. Dowsett
Unit Leader
Monitoring and Enforcement
Hazardous Materials and
Waste Management Division

Date: Dec. 11/1987

Concurrence:
Jerry W. Goad
Assistant Attorney General

MAGLEV STAFF SUPPORT

Mr. **Coughlin**. The fiscal year 1991 budget requests an additional position for the Office of R&D to handle the increased workload in the Maglev high speed rail area. What would be the exact responsibilities of this position, and why is it needed during fiscal year 1991?

Mr. **Carmichael**. One expertise that we do not have on board in our small but effective Research and Development Office, as I understand it, is electronics and——

Mr. **Krick**. Electron and electronics.

Mr. **Carmichael**. Electron and electronics. We do not have that person on board. We need that person. We need that area of expertise.

REIMBURSABLE FUNDS

Mr. **Coughlin**. You estimate $8.3 million in reimbursables in fiscal year 1991. Please tell us more about where these funds will come from and which activities you are supporting.

[The information follows:]

The reimbursable program in Railroad Research and Development for FY 1991 consists of work being performed by the FRA for the United States Air Force in support of the Peacekeeper Rail Garrison (PKRG) Program.

The major portion of the testing of the PKRG rail equipment will be performed at the Transportation Test Center (TTC) in Pueblo, Colorado. PKRG testing at TTC is being performed by the Association of American Railroads (AAR) through their contract with FRA for the care, custody, and control of TTC.

In addition to its responsibility for TTC participation in the PKRG equipment testing program, FRA has been designated the single point of contact between the Air Force and the Nation's railroad industry for PKRG. In fulfilling this responsibility, FRA serves as the agent of the Air Force for the acquisition of railroad and rail-related services and information. It is expected that FRA will continue in this role through the lifetime of the PKRG program, with Air Force funding channeled through a reimbursable agreement.

Mr. **Coughlin**. Please provide for the record comparative data on your reimbursable funding for the past three fiscal years.

[The information follows:]

Particular items of FRA responsibility in the conduct of PKRG testing at TTC include:

Modification of TTC facilities and equipment to accommodate unique PKRG rolling stock.

Acquisition of leased locomotives to power the test trains while both on and off TTC property.

Acquisition of specialized instrumentation for testing PKRG rolling stock.

Conduct of actual test operations at TTC, including static, dynamic, and rolling tests of individual cars and the integrated PKRG train.

Logistical and maintenance support for integrated PKRG train testing on commercial railroads, with the test trains based at TTC.

Analysis of data generated in all tests.

Coordination of all testing requirements with the Air Force and associated contractors.

Administrative and security support for Air Force elements at TTC.

Particular items of FRA responsibility as the Air Force agent in dealing with the Nation's railroads include:

Obtaining information from all major or designated railroads related to the capability of their facilities to handle PKRG operations.

Arranging for railroad support and Air Force access to railroad property for a survey of designated landmarks on nearly all railroad track in the Nation.

Providing expert advice for the Air Force from within the railroad industry, and from within FRA itself, on railroad operational and engineering matters related to the PKRG program.

During the past three fiscal years, practically all R&D reimbursable expenses were for the account of the Air Force Peacekeeper Rail Garrison Program, as follows:

Budget Estimate for R&D Reimbursable Expenses:

	PKRG	Non-PKRG	Total
Fiscal year:			
1988	$10,100,000	$1,000,000	$11,100,000
1989	13,000,000	1,000,000	14,000,000
1990	19,950,000	500,000	20,450,000

Mr. COUGHLIN. For the record, please provide President's Budget estimates and actuals for R&D reimbursable expenses for fiscal years 1988, 1989, and thus far in 1990, and explain any significant deviations.

[The information follows:]

FRA R&D REIMBURSABLE EXPENSES—BUDGET ESTIMATES VS. ACTUAL FISCAL YEAR 1988 THRU FISCAL YEAR 1990

	Budget estimate	Actual
Fiscal year:		
1988	$11,100,000	$7,088,000
1989	14,000,000	7,967,000
1990	20,450,000	[1] 5,421,181

[1] Fiscal year 1990 thru Mar. 27, 1990.

Actual expenditures of reimbursables are governed directly by the cost of projects assigned to FRA by the requesting agency, the rate at which the work can be progressed consistently with the schedules of that agency, and allocations of funds from the requesting agency. In FY 1988 and 1989, expected reimbursable fund agreements with agencies other than the Air Force did not materialize. The rates of actual expenditures for FY 1988 and 1989 were lower than anticipated due to Air Force scheduling constraints.

LOAN GUARANTEES

Mr. COUGHLIN. You also propose to continue the prohibition of funds for the planning and execution of loan guarantees under the Emergency Rail Services Act of 1970, as amended, and guarantees pursuant to subsection 211(a) and 211(h) of the Regional rail Reorganization Act of 1977, as amended. Why do you propose to continue this prohibition?

[The information follows:]

Recent experience does not indicate the need for ERSA funding to provide continued essential rail service for companies in reorganization. Other carriers have generally been willing to provide noncompensatory service for those lines having sufficient traffic; for example, Delaware and Otsego service for D&H Railroad traffic and various carriers for the Rock Island and Milwaukee.

Sections 211 (a) and (h) of the Regional Rail Reorganization Act of 1973, as amended, provided funding authorization for the U.S. Railway Association which was subject to sunset legislation, and no longer exists.

LRSA PROJECT STATUS

Mr. COUGHLIN. Please update for the record the breakdown of LRSA projects designated by Congress, as shown on pages 97 and 98 of last year's hearing record.

[The information follows:]

DESIGNATED LRSA PROJECTS*

Designated Recipient	Congressionally Designated Funding	Project Description	Remarks
FY 1987:	**($ Thousands)**		
Housatonic Railroad	$1200	Rehabilitation of State-owned line from Canaan to New Milford	Approved
Western Massachusetts Rail Rehabilitation	1000	Rehabilitation of Boston & Maine line fron North Adams to Sheffield	Application for $1 million submitted on 6/15/87; it does not include statuorily required benefit-cost analysis. The Railroad has not provided Massachusetts the necessary financial data. Also, the railroad included a significant portion of the line in Category I of System Diagram Map in 9/87. No further abandonment action has been taken.
FY 1988:			
Massachusetts-Rail Rehabilitation Needs	960	Rehabilitation of the Pioneer Valley Railroad	Approved
Manteno, Illinois Rail Spur	580	Rail facility construction to ensure rail service to an abandoned mental health facility that is being developed into an industrial park	Approved

Binghamton, New York Rail Structure	385	Rehabilitation furthering restructuring in the rail yard in Binghamton	Approved
Chicago, Central & Pacific Line, Iowa	865	Rehabilitation of the line from Tara to Le Mars	Approved
New York, Susquehanna & Western, New Jersey	960	Rehabilitation of the New York, Susquehanna & Western Railroad	Approved
Keokuk Junction Railway, Illinois	580	Rehabilitation of segment between Hamilton and La Harpe	Approved
Burlington Northern, Illinois	290	Construction of a connection between a Burlington Northern line and the Chicago, Missouri and Western Railway	Approved
CSX Midland City to Greenfield, Ohio	915	Acquisition of the CSX segment from Midland City to Greenfield	Approved

***As of March 14, 1990**

LRSA OBLIGATIONS/ALLOCATIONS

Mr. COUGHLIN. Please update for the record the LRSA obligation/allocation data shown on pages 100 through 103 of last year's hearing record.

[The information follows:]

LRSA OBLIGATIONS/ALLOCATIONS
FISCAL YEAR 1989

STATE	ENTITLEMENT	PLANNING	REHABILITATION	RAIL FACILITY CONSTRUCTION	ACQUISITION	SUBSTITUTE SERVICE	TOTAL OBLIGATIONS
ALABAMA	$	$	$				$ -0-
ALASKA							-0-
ARIZONA		48,000*					48,000
ARKANSAS							-0-
CALIFORNIA							-0-
COLORADO		70,266					70,266
CONNECTICUT							-0-
DELAWARE							-0-
DISTRICT OF COLUMBIA							-0- -0-
FLORIDA							-0-
GEORGIA							-0-
IDAHO							-0-
ILLINOIS				$290,000**			290,000
INDIANA							-0-
IOWA			48,000*				48,000
KANSAS							-0-
KENTUCKY			48,000*				48,000
LOUISIANA							-0-
MAINE							-0-
MARYLAND							-0-
MASSACHUSETTS			960,000**				960,000
MICHIGAN							-0-
MINNESOTA							-0-
MISSISSIPPI							-0-
MISSOURI							-0-
MONTANA							-0-
NEBRASKA		13,000*					13,000
NEVADA							-0-
NEW HAMPSHIRE							-0-
NEW JERSEY			960,000**				960,000

NEW MEXICO					-0-
NEW YORK			385,000**		385,000
NORTH CAROLINA					-0-
NORTH DAKOTA					-0-
OHIO					-0-
OKLAHOMA		48,000*			48,000
OREGON					-0-
PENNSYLVANIA		67,255***			67,255
RHODE ISLAND		98,000*			98,000
SOUTH CAROLINA					-0-
TENNESSEE					-0-
TEXAS					-0-
UTAH					-0-
VERMONT					-0-
VIRGINIA					-0-
WASHINGTON					-0-
WEST VIRGINIA					-0-
WISCONSIN					-0-
WYOMING					-0-
					-0-
	$ 131,266	$2,229,255	$675,000	$	$ 3,035,521

*Carryover entitlement funds.
**Earmarked discretionary funds only.
***Earmarked and non-earmarked discretionary funds.

LRSA OBLIGATIONS/ALLOCATIONS
FISCAL YEAR 1990

STATE	ENTITLEMENT	PLANNING	REHABILI- TATION	RAIL FACILITY CONSTRUCTION	ACQUISITION	SUBSTITUTE SERVICE	TOTAL OBLIGATIONS
ALABAMA	$ 35,892	$	$				
ALASKA	35,892						$ -0-
ARIZONA*							-0-
ARKANSAS	35,892						-0-
CALIFORNIA*							-0-
COLORADO*							-0-
CONNECTICUT*							-0-
DELAWARE	35,892						-0-
DISTRICT OF							-0-
COLUMBIA*							-0-
FLORIDA*							-0-
GEORGIA	35,892						-0-
IDAHO	35,892						-0-
ILLINOIS	35,892						-0-
INDIANA	35,892						-0-
IOWA	35,892						-0-
KANSAS	35,892						-0-
KENTUCKY	35,892						-0-
LOUISIANA*							-0-
MAINE*							-0-
MARYLAND	35,892						-0-
MASSACHUSETTS*							-0-
MICHIGAN	35,892						-0-
MINNESOTA	35,892						-0-
MISSISSIPPI	35,892						-0-
MISSOURI	35,892						-0-
MONTANA	35,892						-0-
NEBRASKA	35,892						-0-
NEVADA	35,892						-0-
NEW HAMPSHIRE*							-0-
NEW JERSEY*							-0-
							-0-

NEW MEXICO	35,892					-0-
NEW YORK	35,892					-0-
NORTH CAROLINA	35,892					-0-
NORTH DAKOTA	35,892					-0-
OHIO	35,892					-0-
OKLAHOMA	35,892					-0-
OREGON	35,892					-0-
PENNSYLVANIA*						-0-
RHODE ISLAND*						-0-
SOUTH CAROLINA*						-0-
SOUTH DAKOTA	35,892					-0-
TENNESSEE	35,892					-0-
TEXAS*						-0-
UTAH	35,892					-0-
VERMONT	35,892					-0-
VIRGINIA	35,892					-0-
WASHINGTON	35,892					-0-
WEST VIRGINIA	35,892					-0-
WISCONSIN	35,892					-0-
WYOMING*						-0-
	$1,220,328	$	$	$	$	$

*Not eligible for FY 1990 funding because previously granted funds have not been obligated.

**Statutory deadline for approval of FY 1990 applications is April 1, 1990.

LRSA UNEXPENDED FUNDS

Mr. COUGHLIN. Please update for the record the LRSA obligation data which appears on pages 104 and 105 of last year's hearing record.

[The information follows:]

STATES WITH UNOBLIGATED ENTITLEMENT FUNDS*

STATE	CARRYOVER
Colorado	$48,000**
Maine	123,000**
Michigan	48,000**
TOTAL	$219,000

*As of March 1, 1990
**Incomplete application has been submitted

LOCAL RAIL SERVICE ASSISTANCE FUNDS NOT OUTLAYED
FISCAL YEAR (MILLIONS)

STATE	76	77	78	79	80	81	82	83	84	85	86	87	88
AL	$	$	$	$	$	$	$	$	$	$	$ .1	$ .1	$
AK												.1	
AR										.1			.1
AZ												.1	.1
CA											.1	.1	.1
CO											.1		
CT	.2*										.1	.1	.1
DC													
DE													.1
FL													
GA													.1
IA													
ID											.1		.1
IL													.1
IN													.1
KS													
KY													.1
LA											.1	.1	
MA												.1	1.0
MD													
ME			.1	.1	.1						.1		
MI											.1	.1	.1
MN													
MO							.2				.1	.1	.1
MS													.1
MT													
NC												.1	.1
ND												.1	.1
NE													
NH	.7*				.2*	.3*							
NJ					.1	.1				.1	.3	.4	.2
NM											.1	.1	
NV										.1		.1	
NY										.1			.1
OH											.1		.1
OK													
OR													.1
PA				.5		.2		.2	.1	.1		.1	.1
RI			.4	.1	.6				.3		.1		.1
SC									.2	.1		.3	
SD											.1		
TN												.1	
TX										.3	.1	.1	.1
UT											.1	.1	
VA												.1	.1
VT													.1
WA													.1
WI							.1	.1	.1	.1	.1	.1	
WV												.1	
WY												.1	
TOTAL	$0.9	0.0	0.5	0.7	1.0	0.6	0.3	0.3	0.7	1.0	1.9	2.8	3.6

*Pending Litigation

LRSA DISCRETIONARY GRANTS

Mr. COUGHLIN. Please update for the record the breakdown of LRSA discretionary grants, as shown on pages 107 through 112 of last year's hearing record. Please drop fiscal year 1986 and fiscal year 1987 data and add data for fiscal year 1990.

[The information follows:]

FY 1988 DISCRETIONARY GRANTS

STATE	PROJECT	AMOUNT
Connecticut	Rehabilitation of Housatonic Railroad	$1,200,000*
Illinois	Construction of a rail spur in Manteno	580,000**
	Rehabilitation of the Keokuk Junction Railway between Hamilton and La Harpe	580,000**
Iowa	Rehabilitation of the Chicago, Central and Pacific Railroad between Tara and Le Mars	865,000**
Kansas	Rehabilitation of Dodge City, Ford, and Bucklin Railroad	$1,000,000*
Michigan	Rehabilitation of Detroit & Mackinac Railway and construction of a connection to a State-owned line	800,000*
Mississippi	Continued rehabilitation of the Mississippian Railway between Amory and Fulton	460,000**
	Continued rehabilitation of Columbus & Greenville Railway	500,000**
North Dakota	Continued rehabilitation of Soo Line between Fordville and Loma	375,000**
Ohio	Acquisition of the former CSX segment betwwen Midland City and Greenfield	915,000**
South Dakota	Continued rehabilitation of the State-owned line between Canton and East Wye Switch	84,245**
West Virginia	Continued rehabilitation of Chapline Tunnel on Wheeling Industrial Track	300,000**
	TOTAL	$7,659,245

*Earmarked in FY 1987 Conference Report.

**Earmarked in FY 1988 Conference Report.

FY 1989 DISCRETIONARY GRANTS

STATE	PROJECT	AMOUNT
Illinois	Construction of a connection between a Burlington Northern line and the Chicago, Missouri and Western Railway	$290,000*
Massachusetts	Rehabilitation of Pioneer Valley Railroad	960,000*
New Jersey	Continued rehabilitation of the New York, Susquehanna and Western Railroad	960,000*
New York	Construction of a connection and track rehabilitation in the New York, Susquehanna and Western's Binghamaton Yard	385,000*
Pennsylvania	Continued rehabilitation of Allegheny Railroad	67,255*
	TOTAL	$2,662,255

*Earmarked in FY 1988 Conference Report.

FY 1990 DISCRETIONARY GRANTS

STATE	PROJECT	AMOUNT
Alabama	New project to rehabilitate Alabama and Florida Railroad	$ 395,702
Alaska	Continued rehabilitation of Whittier Tunnel	200,000
Arkansas	New project to rehabilitate Delta Southern Railroad	432,635
Georgia	New project to rehabilitate Georgia Woodlands Railroad	179,047
Idaho	Continued rehabilitation of St. Maries River Railroad	200,000
Illinois	New project to rehabilitate Wisconsin and Calumet Railroad	343,245
Indiana	Continued rehabilitation of Indiana Rail Road	416,654
Iowa	Continued rehabilitation of Chicago and North Western line from Rake to Esterville	388,800
Kansas	Continued rehabilitation of Hutchinson and Northern Railway	86,100
Maryland	Continued rehabilitation of the State-owned Centreville and Chestertown lines	164,108
Michigan	New project to replace bridge on state-owned Hillsdale County Railway	71,190*
Mississippi	Continued rehabilitation of Columbus & Greenville Railway	378,550
New Mexico	New project to rehabilitate Texas & New Mexico Railroad	113,863
New York	New project to rehabilitate Rochester and Southern Railroad	317,918

North Carolina	Continued rehabilitation of Aberdeen, Carolina and Western Railroad	164,033
North Dakota	Continued rehabilitation of Red River Valley and Western Railroad	150,000
Ohio	New project to rehabilitate the Indiana Hi-Rail from Liberty Center to Woodburn	532,000
Oregon	New project to rehabilitate the Port of Tillamook Bay Railroad	665,305
South Dakota	New project to rehabilitate line from Huron to Yale	155,000
Tennessee	Continued rehabilitation of Nashville and Eastern Railroad from Nashville to Monterey	144,106
Virginia	Continued rehabilitation of Eastern Shore Railroad	469,308
	TOTAL	$5,967,564

*Funds reserved pending completion of environmental requirements.

ADJOURNMENT

Mr. LEHMAN. Thank you, Mr. Carmichael. That also completes our hearing for the day. Thank you for being here. You have been a good witness and a very durable witness.

THURSDAY, MARCH 22, 1990.

NATIONAL RAILROAD PASSENGER CORPORATION

FEDERAL RAILROAD ADMINISTRATION

WITNESSES

NATIONAL RAILROAD PASSENGER CORPORATION

W. GRAHAM CLAYTOR, PRESIDENT AND CHAIRMAN

WILLIAM S. NORMAN, EXECUTIVE VICE PRESIDENT, MARKETING AND BUSINESS DEVELOPMENT

CHARLES W. HAYWARD, VICE PRESIDENT, FINANCE AND ADMINISTRATION

TIM GILLESPIE, VICE PRESIDENT, GOVERNMENT AND PUBLIC AFFAIRS

FEDERAL RAILROAD ADMINISTRATION

GILBERT E. CARMICHAEL, ADMINISTRATOR

S. MARK LINDSEY, CHIEF COUNSEL

JOSEPH W. WALSH, ASSOCIATE ADMINISTRATOR FOR SAFETY

JAMES T. McQUEEN, ASSOCIATE ADMINISTRATOR FOR PASSENGER AND FREIGHT SERVICES

GARY V. CECCUCCI, ACTING DIRECTOR OF BUDGET

OPENING STATEMENTS

Mr. LEHMAN. Good morning. The subcommittee will come to order.

This morning we will receive testimony on the fiscal year 1991 budget request for Amtrak. That request totals $684 million, an increase of $79 million over the fiscal year 1990 appropriations. Our principal witnesses today are Mr. W. Graham Claytor, the President and Chairman of the Board of Amtrak, and Mr. Gilbert E. Carmichael, the Administrator of the FRA.

Mr. Claytor, we will be pleased to hear your testimony at this time. Then, Mr. Carmichael, we will hear your opening statement. Both of you may read your statements or, if you prefer, you may summarize them and the complete statements will be placed in the record.

Mr. Claytor, you may proceed.

AMTRAK OPENING REMARKS

Mr. CLAYTOR. Thank you very much, Mr. Chairman.

I appreciate your remarks and, as always, I am happy to have the opportunity to appear before this subcommittee to discuss the year we have just completed and to outline our vision for the new decade and beyond.

First, I have at the table with me on my right, William S. Norman, Amtrak's Executive Vice President, and beyond him, Charles W. Hayward, Vice President, Finance and Administration, who is in charge of our budget. And on my left, Tim Gillespie, Assistant Vice President, Government and Public Affairs.

Mr. Chairman, my prepared testimony deals at length with our activities during the past year and I assume that a copy of it together with attachments will be placed in the record.

In my oral presentation, I will just try to hit a few of the high points in this longer statement. As the committee is aware, Amtrak is requesting $495 million for operations. In constant dollars, this is one of the lowest requests in our history. We also are asking for $188 million for critically needed capital improvements and a million dollars for labor protection liability so that our total request is for $684 million, the amount both the House and Senate authorization bills include for Amtrak for fiscal year 1991.

In addition, we are asking for $58.8 million in Northeast Corridor Improvement Funds for continuation of important authorized but unfunded improvements in the Northeast Corridor.

Mr. Chairman, it has been 19 years since Amtrak commenced operation of a nationwide rail passenger system under the Rail Passenger Service Act of 1970. At that time, a much more extensive passenger network provided by the private freight railroads was losing over $500 million a year, which in today's dollars would be $1.7 billion of loss.

At the same time, as I personally recall only too well, with only a few exceptions, the quality of this privately operated passenger service was abysmal and was deteriorating.

Now, some 20 years later, it is particularly interesting to note that Amtrak is operating more total passenger miles than did all of the intercity passenger railroads combined in 1970 and is doing so at a fraction of their net cost.

This past year, we were able to cover 72 percent of the total cost of operating our system, better than any passenger system in the world of which we are aware. And we hope to raise that further this year.

It is now our goal to eliminate our need for any Federal operating support by the year 2000. We think this goal is realistic provided we are able to continue to increase revenues and control costs at the rate we have been able to do this over the last eight years. To accomplish this, however, we must obtain now the capital necessary to acquire significant numbers of new cars and locomotives and so tap the growing demand for rail passenger service.

We also will require capital to modernize our maintenance facilities in order to improve productivity and control costs. Equally important, we have to modernize the labor work rules that govern many of our non-operating functions if we are to optimize their efficiency and find the funds with which to pay our employees a fair yet affordable compensation package.

And, finally, we must look to Congress to help cleanse our budget of substantial costs that are imposed on us but are not expended or needed for rail intercity rail passenger service. These include some $152 million in excess of Railroad Retirement and Railroad Unemployment Insurance costs as well as some $47 million of cross-subsidy for commuter trains operating over our Northeast Corridor, as explained more fully in my prepared statement and attachments.

If these unrelated costs were eliminated, Amtrak's true need for operating support in fiscal year 1991 would be only $296 million, almost $200 million less than the $495 million we must request under existing requirements.

We certainly want to work with the subcommittee on seeing if there is not some way to right this situation. In addition, of course, taking Amtrak out of FELA would save another $17 million currently and even more in future years.

Now, revenues during the past year were very strong, reaching more than $1.25 billion, up 15 percent over last year and more than double our revenues eight years ago. I must emphasize, however, that we are essentially capacity constrained in many of our markets and presently are improving revenues primarily through yield management, which includes selectively higher fares. I do not believe we can continue this revenue growth much longer without additional capacity, and as you know additional capacity means more equipment.

This subcommittee was able to provide Amtrak $50 million in Federal capital for fiscal year 1990 for investment in new long-distance cars. I am pleased to report that we intend to move forward with an initial order for at least 75 new superliner sleeping and food service cars using this Federal capital and as much as $150 million in funds to be obtained from private financial markets for this purchase.

These high capacity, double-deck cars will provide critically-needed seats and bedrooms on existing routes and permit us to convert our premiere auto train service to the new superliner equipment.

This, in turn, will free up the auto train's excellent existing equipment to add capacity on other single level long-distance routes and to provide equipment to make the tri-weekly Cardinal daily. That is an important step toward our long term objective of making all of our long-distance frequencies daily and, so, eligible for profitable mail contracts.

The superliner cars have a high return on investment, more than sufficient to cover the cost of those funds to be obtained from the private sector.

Our 1991 grant request details an even more ambitious equipment acquisition plan for next year depending, of course, on the availability of Federal capital. The viewliner testing is almost complete. We are still working to eliminate the inevitable bugs in any new system. And we need to go ahead with their acquisition in order to begin replacing our 40-year old Heritage Fleet.

We also are very strapped for motive power and must move ahead on the purchase of more locomotives including new state-of-the-art three-phase alternating current traction motor engines, two prototypes of which are now undergoing tests at the AAR Test Center in Pueblo, Colorado. I am satisfied that these locomotives represent the wave of the future. We will probably have to first purchase some additional direct current engines for immediate use, but I am anxious to convert our fleet to this new modern system as soon as we can.

Amtrak's increasing need for capital investment, of course, is an issue that this subcommittee has heard every year since the mid-1980s when, unhappily, Federal capital grants to Amtrak were drastically slashed.

I understand and am very sensitive to the enormous financial crunch that the Federal deficit has imposed on all of government, but particularly on transportation. It is for this very reason that Amtrak has advocated a more unified, consistent and coordinated funding approach for all surface transportation modes.

We are not proposing a specific increase in the Federal gasoline tax, but if it is increased, as a means of addressing this nation's growing transportation problems, I strongly urge this subcommittee to support use of a penny of this tax increase for Amtrak's capital investment.

It is interesting to see what this would enable us to do. In addition to enabling Amtrak, through more capacity and possibly new routes, to be an even more vital link with rural America, this additional capital would permit us, for example, to upgrade our New Haven to Boston line by electrification and other improvements and to obtain the type of high-speed equipment which Mr. Carmichael, our Director, Haley Barbour and I recently saw in operation in Sweden.

All this, in turn, would enable us to provide high speed New York to Boston service in under three hours and New York to Washington service in about 2 hours 15 minutes, as well as show the way to similar high speed service on other corridors. Such services would free up congested airports and interstate highways and so avoid billions of dollars of expenditure for otherwise necessary expansion of these incredibly costly facilities.

This would also be an important step in achieving Amtrak's determination to become a world leader in the coming era of high speed rail systems.

In conclusion, Mr. Chairman, let me say that with the strong and essential support of this subcommittee and the Congress, Amtrak has made a powerful case since passage of the Rail Passenger Service Act in 1970 for the rail passenger alternative. We have a capable and dedicated management team in place. And with additional capital funding that is very modest compared to airport and interstate highway costs, we can play an even greater role, particularly as energy and environmental concerns regain the importance they had a decade ago.

Thank you, Mr. Chairman, I will be pleased to respond to your specific questions.

[The prepared statement of Mr. Claytor follows:]

TESTIMONY
OF
W. GRAHAM CLAYTOR, JR.
PRESIDENT AND CHAIRMAN OF THE BOARD
NATIONAL RAILROAD PASSENGER CORPORATION

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND
RELATED AGENCIES APPROPRIATIONS
U. S. HOUSE OF REPRESENTATIVES

MARCH 22, 1990

My name is W. Graham Claytor, Jr. As President and Chairman of the Board of the National Railroad Passenger Corporation (Amtrak), I am pleased to be here today to detail the outstanding year we have just completed and to outline to the Subcommittee Amtrak's vision for the new decade and the century beyond.

Since I first appeared before this Subcommittee in 1983, I have been able to report each year that Amtrak's financial performance during the previous fiscal year had significantly improved and broken all previous records. This past year is no exception. FY 1989 was a record year and the prospects for long-term continued revenue and passenger-mile growth are strong. Revenue reached $1.27 billion, a 15 percent improvement over last year, and enabled Amtrak to cover 72 percent of its operating costs without federal operating assistance. Total intercity passenger miles climbed to 5.86 billion, the highest in Amtrak's history and up over 23 percent since 1981. Indeed, the number of miles travelled by Amtrak's passengers is now higher than it was for all passengers travelling on the various intercity passenger railroads in the United States in 1970, prior to the establishment of Amtrak. What is most remarkable about the continued growth in both revenue and passenger miles is that this has been accomplished at a time when Amtrak essentially has outstripped the capacity of its equipment to carry additional passengers on many of its routes. Growth has been achieved primarily through yield management, and by higher fares and better utilization of equipment. Indeed, because of the lack of capacity on many of our trains, Amtrak has been turning away millions of potential passengers, particularly for expensive first-class accommodations.

Amtrak's reduced request for federal financial assistance during FY 1991 reflects the continuing progress Amtrak is making towards providing better rail passenger service at less cost to the federal government. Amtrak is requesting $495 million for operations, $35 million less than appropriated for FY 1990 and an amount that in constant dollars equates to the level of federal operating support provided in the very first years of Amtrak's history.

Amtrak also is requesting $188 million in federal capital funding. This will supplement capital generated by Amtrak and enable us to leverage funds borrowed from the private sector to support a modest passenger car and locomotive acquisition program, as well as to undertake important plant modernization. Last year, Amtrak requested $50 million in FY 1990 capital funds, to be matched with an equal or greater sum in the private financial market, for use in placing a first order for new long-distance cars. We were extremely pleased that this Subcommittee, and Congress, supported this approach. In evaluating the best use for the equipment capital, we determined that we could acquire equipment sooner and realize a higher return on investment by purchasing additional Superliner cars -- our high capacity, handicapped accessible, two-level sleeping and coach cars, as well as additional Superliner diner cars -- rather than new Viewliners, which are still undergoing several mechanical and accessibility design changes. In order to achieve minimum order efficiencies, we would like to go forward this Spring with an initial purchase of at least 75 new Superliner long-distance cars to be funded with the federal capital support provided last year, funds borrowed from the private sector and possibly some FY 1991 federal capital. The new Superliner cars will be used to increase capacity on several sold-out long-distance routes and to substitute the two-level Superliner cars for existing single-level equipment on Amtrak's premier Auto Train service. This, in turn, will then make available high-quality single-level equipment for use in expanding capacity on other single-level trains. Additional capacity is urgently needed if we are to maintain the revenue growth we have achieved during the past decade. I am very confident that Amtrak can continue to depend on this type of public/private funding to address many of our significant deferred and current capital needs, particularly new equipment.

Together with a request for $1 million to cover anticipated labor protection liability, Amtrak's total FY 1991 grant request is for $684 million. This is the level of funding that the House approved by a vote of 296 to 93 and the Senate approved by voice vote for Amtrak's FY 1991 authorization. It represents an increase of approximately $79 million over the FY 1990 appropriation. However, as the House Energy and Commerce Committee recognized in its report on the Amtrak Authorization bill:

> [This] increase in Amtrak's authorization relative to the current appropriation level is imperative if Amtrak is to meet its greatest need -- replacing its aging fleet of cars. Unless such improvements are made, Amtrak's ability to generate revenues through increased ridership will be jeopardized.

Amtrak also is requesting a total of $58.8 million for the Northeast Corridor Improvement Project. These funds would be used to make a number of important improvements to the Corridor's electric traction system and right-of-way. It also would provide Amtrak's financial contribution, as specified in House Report 100-957, to the extension of the Centralized and Electric Traffic Control (CETC) system between Wilmington, Delaware, and Newark, New Jersey, a jointly funded project by Amtrak, UMTA, SEPTA and New Jersey Transit.

It is important to note that nearly half of the $495 million operating grant Amtrak is requesting for FY 1991 will either be given back to the federal government in the form of excess Railroad Retirement and Railroad Unemployment payments, which the government will use elsewhere to pay federal liabilities, or will be used to support state commuter rail operations on the Northeast Corridor. The actual amount of taxpayer funds needed to operate Amtrak's intercity rail operations during FY 1991 will be just $296 million. In addition, the requirement that Amtrak resolve its employee injury claims under the Federal Employers' Liability Act rather than under state workers' compensation laws results in at least an additional $17 million in unnecessary costs. If Amtrak's budget reflected only the true and necessary costs of operating intercity rail passenger service, our FY 1991 operating request would be in the amount of just $279 million. Under this accounting methodology, Amtrak expects to cover 87 percent of the cost of its intercity service next year. The manner in which Amtrak's budget needs are artificially inflated is reflected in the FY 1991 Grant Request and Justification, submitted to the Subcommittee on February 15, 1990, and is discussed at length in Amtrak's 1990 Legislative Report, which I have included as Attachment 1 hereto.

Amtrak's steady financial improvement has helped produce an important change in public attitude towards rail passenger service and the positive role that it can play in the national transportation system. Favorable articles about Amtrak and the resurgence of rail passenger service by the major newspapers and several national magazines demonstrate that Amtrak increasingly is seen as part of the answer for alleviating the highway and airport congestion that is so clogging the nation's transportation system and polluting the nation's air and environment. Indeed, last year's 373 to 42 vote by the House of Representatives to defeat an amendment to the FY 1990

Transportation Appropriations Bill that would have eliminated federal support for Amtrak poignantly illustrated the extremely broad support in this country for a national rail passenger system. Even some of Amtrak's most ardent critics have modified their view. Stephen Moore, an economist with the Heritage Foundation who led efforts several years ago against continued federal support for Amtrak, recently was quoted by the New York Times as stating: "I say, hats off to . . . the folks at Amtrak. They have really turned that railroad around."

Needless to say, we were very disappointed that for the sixth straight year the Administration has recommended against Amtrak funding for the next fiscal year. Despite Amtrak's continued financial improvement, it must still rely for the next few years on federal operating support, and the absence of such support would force the termination of all Amtrak intercity service -- long-distance as well as Northeast Corridor operations. It also would force state commuter rail authorities and freight railroads to absorb some $127 million in additional costs just to keep the Northeast Corridor open for commuter and freight business. Attachment 2 hereto summarizes the impact that would result from the elimination of Amtrak service.

Nonetheless, Amtrak is encouraged that for the first time in many years the Administration's budget officially recognizes Amtrak's financial progress and pledges that the Administration will work with Congress and the private sector to help secure needed capital for Amtrak.

The convergence of Amtrak's financial improvement and growing support for an enhanced national rail passenger system bodes well for the future. With a significant capital investment in new passenger equipment and modern maintenance facilities, and an Amtrak budget that reflects only the real cost to the taxpayer of providing intercity rail passenger service, Amtrak now believes it can in fact attain, by the year 2000, a goal no passenger railroad in the world today is achieving: covering 100 percent of Amtrak's operating costs without federal assistance. Reaching this unprecedented goal will require the strong support of Congress, the Administration and the private sector. Nonetheless, I believe it is a realistic goal and we are committed to it. Several of the issues related to achieving operational self-sufficiency are discussed in Amtrak's 1990 Legislative Report, which is Attachment 1. The ultimate result will be an Amtrak capable of providing enhanced intercity rail passenger service wherever it can be justified, at no overall annual operating cost to the federal government. This is an exciting objective and one that we feel Amtrak realistically can meet if the capital and budgetary assistance we need are addressed.

Amtrak's goal of covering its own operating costs comes at a particularly auspicious time in this nation's history.

Several ominous developments underscore the need for a comprehensive national transportation policy that looks increasing to intercity rail passenger service in many crowded corridors and encourages its use as a long-distance transportation alternative. For example:

o Transportation accounts for 65 percent of petroleum use in the United States and petroleum imports have risen to 35 percent of total supply. By the year 2000, 60 percent of the nation's gasoline supply is expected to be refined from imported petroleum.

o Air pollution from motor vehicles is responsible for $40-50 billion in annual health-care expenditures and as many as 120,000 premature deaths each year.

o The Federal Aviation Administration estimates that flight delays in 1986 increased airline operating expenses by $1.5 billion and cost passengers an additional $1.5 billion in lost time and productivity.

o The Department of Transportation estimates that delays to travelers and commuters on United States highways will reach 3.9 billion hours per year by 2005 unless significant improvements are made. The Transportation Research Board projects that within 20 years these delays will grow to some 5.6 billion hours, result in the unnecessary consumption of 7.3 billion gallons of gasoline a year, and cost travelers an extra $41 billion.

Increased reliance on rail passenger service can alleviate some of these critical problems. Amtrak is prepared and eager to play an increasingly important role in a national transportation system that is sensitive to energy and environmental concerns and the needs of urban and rural America.

First, we can and should be the primary public transportation carrier in high-density corridors -- such as Washington-New York; New York-Boston; Los Angeles-San Diego;

Chicago-Detroit, and various others -- thereby helping to ease highway congestion and freeing-up limited airport capacity for longer-distance air travelers. For example, one-third of the passengers flying out of Boston's congested Logan Airport, and one-fifth of the passengers flying out of New York's equally crowded major airports, are traveling between Boston and New York. High-speed rail service between the two cities in three hours or less, sufficient to attract large numbers of business travelers, could significantly reduce the need for New York-Boston air service, thereby easing airport capacity concerns. In this connection as well, Amtrak hopes to expand its contract commuter operations to assist cities in providing reliable, marketable commuter rail service in congested cities. During the past year, Amtrak signed an agreement to operate commuter service between Northern Virginia and Washington, and between New Haven and Old Saybrook, Connecticut, and Amtrak is looking at several other interesting opportunities in California and other states.

Second, as airlines and bus companies continue to pull out of rural America, Amtrak service increasingly is looked to as a vital link -- in some cases the only public transportation link -- to America's heartland. With additional equipment, Amtrak can improve and expand its long-distance services to an increasingly isolated segment of this country.

Lastly, Amtrak would be the logical and most experienced operator in the area of high-speed rail. We are committed to applying our expertise to assist in the development and operation of new high-speed rail systems, both based on magnetic levitation and on more conventional technologies. I firmly believe that there can be a bright future for high-speed rail in key transportation corridors in this nation and Amtrak intends to play an active role in helping develop this potential.

In short, we are excited by the challenges ahead and are confident that, if given the needed tools -- capital funds and legislative relief from outdated laws -- we can indeed be an even more important part of the solution to this nation's transportation needs.

A Year Of Continued Financial Progress

During FY 1989, Amtrak continued its march towards operating self-sufficiency by achieving the highest level of revenues and passenger miles and the highest revenue-to-cost ratio in its 19-year history, all despite severe equipment shortages. The continued strong growth in revenues in the face of frequent fare increases demonstrates the strength and depth of demand for Amtrak service, and further emphasizes the very positive financial impact that will result from the acquisition of new passenger equipment.

Amtrak's progress during the past nine years is summarized in the following chart.

Comparison of Financial and Performance Data

	1981	1989	Change
Total Revenues In Current Dollars (millions)	$ 612.2	$ 1,269.1	+ 107%
Total Revenues (1981 $ millions)	$ 612.2	$ 921.5	+ 51%
Revenue to Cost Ratio	0.48	0.72	+ 50%
Total Federal Grant (1981 $ millions)	$ 896	$ 442.1	- 53%
Federal Operating Grant In Current Dollars (millions)	$ 675.8	$ 553.8	- 18%
Federal Operating Grant (1981 $ millions)	$ 675.8	$ 402	- 40%
Federal Capital Grant In Current Dollars (millions)	$ 221	$ 30	- 84%
Revenue to Short-Term Avoidable Cost Ratio	0.73	1.20	+ 73%
Revenue to Long-Term Avoidable Cost Ratio	0.60	0.91	+ 52%
Passenger Miles (millions)	4,762	5,859	+ 23%
Passenger Miles Per Train Mile	155	188	+ 22%
Total Federal Support As A Percentage Of U. S. Budget	0.1	0.05	- 50%
Managerial Staff As Proportion Of Work Force	0.15	0.12	- 20%

As can be seen, FY 1989 was a year of significant improvements and accomplishments. A detailed description of Amtrak's financial and performance achievements is included in Amtrak's 1989 Annual Report, and rather than repeat all the same detail here, I have attached the Annual Report as Attachment 3 hereto. Clearly, we are putting our limited equipment fleet to its best and most efficient use. At the same time, Amtrak is taking all possible steps to ensure that this equipment is adequately and properly maintained. Our Metroliner Service trains operated on-time 92.8 percent of the time, and system-wide on-time performance jumped four percentage points to 75 percent. This was still below our system-wide goal of 80 percent, but nonetheless reflects the effectiveness of Amtrak's efforts to modernize its maintenance facilities and streamline the equipment maintenance process. Amtrak's revenue enhancement efforts -- ranging from real estate development to the provision of contract commuter service to the carriage of mail and express -- continue to make an important and growing financial contribution to Amtrak's operating budget as well as to provide critically needed capital resources.

Most importantly, we are carrying passengers longer distances and earning more revenue per passenger mile than ever before in Amtrak's history. Intercity rail passenger service is more cost effective than it has been in decades and Amtrak is literally deluged with requests from states and other interested parties to study new rail passenger routes and additional frequencies on existing routes. I firmly believe that Amtrak is a success story of which the federal government and the American people can be proud, and Amtrak is committed to providing even better service as we seek to eliminate the need for federal operating assistance in the coming years.

Key Concerns On Road To Operational Self-Sufficiency

Improved financial performance in any corporation depends on increasing revenues relative to costs. As this Committee has recognized, in the case of Amtrak, which already is squeezing nearly all the revenue it can out of its equipment fleet, revenue growth will require a substantial capital investment during the coming years. At the same time, however, Amtrak's goal of eliminating its need for federal operating support will depend on its ability to control costs -- inflation, run-away health and benefit expenses, and requirements imposed by law that can increase the cost of providing rail passenger service.

The keys to Amtrak's success in reducing its need for federal operating assistance, and indeed to its future role in the national transportation system, will depend primarily on its ability to invest both in new equipment and plant modernization, and to control costs. I would like to turn to these two issues in greater detail.

A. Investing In Amtrak's Future

The primary fuel that fed Amtrak's dramatic financial improvement during the 1980s was the nearly $2.2 billion in federal capital assistance appropriated to Amtrak between 1971 and 1984. This capital enabled Amtrak to purchase its fleet of Amfleet and Superliner cars, as well as over 200 diesel and electric locomotives; to restore and modernize hundreds of Heritage passenger cars; to acquire and modernize several of Amtrak's major equipment overhaul facilities; and to invest in new equipment and machinery that could vastly improve car, locomotive and track maintenance. The result, coupled with significant productivity improvements agreed to by Amtrak's labor organizations, has been dramatic: a 50 percent improvement since 1981 -- from 48 percent to 72 percent -- in Amtrak's ability to cover costs with revenue.

It will take a similar capital investment to give Amtrak the tools -- equipment and modernized facilities -- to match the financial improvement of the 1980s and enable it to cover 100 percent of its operating costs with revenues. Amtrak's capital needs, while modest for a Class I railroad with a $2 billion operating budget, nonetheless are significant. During the current decade, Amtrak will need federal, state and private support to fund numerous essential capital programs:

- o Some 270 new, state-of-the-art locomotives will be needed to replace exhausted equipment and to provide additional motive power for longer trains and potential new services.
- o Approximately 175 new Superliner and 307 Viewliner cars will be needed to meet the growing demand for

rail passenger service on existing, capacity-constrained routes, to replace the 40-year-old Heritage sleeping car fleet, and to add new routes and frequencies where economically justified. The new equipment will be more efficient to operate and carry a larger number of passengers in a more pleasant, amenable environment, thereby generating significant additional revenues. As noted, Amtrak intends to go forward this year with the initial acquisition of at least 75 new Superliner cars.

o Amtrak's maintenance and overhaul facilities must be upgraded with new, more efficient equipment and redesigned to permit important cost-saving productivity improvements. The result will be improved equipment reliability, better maintained cars and locomotives, reduced maintenance costs, and better working conditions for Amtrak's employees.

o Infrastructure improvements to the Northeast Corridor to provide better than 2 hour 15 minute service between Washington and New York and at least 2 hour 59 minute service between New York and Boston will generate significant incremental revenue and ridership for Amtrak and further solidify Amtrak's predominance as the carrier of choice in the Northeast Corridor. This in turn will ease the need for expensive and environmentally-intrusive highway and airport expansion programs. Amtrak is working with the Coalition of Northeastern Governors (CONEG) and the U.S. Department of Transportation to undertake a state/Amtrak/federal program to fund improvements to the rail line north of New York and to acquire the new "tilt technology" passenger cars that will be required to meet demand for high-speed rail passenger service on the Northeast Corridor.

o Badly needed improvements to other rail corridors, such as between Los Angeles and San Diego and on several routes out of Chicago, would provide faster travel times and more reliable service, thereby improving revenues and demand. Capital funding will be required to upgrade the road bed, eliminate grade-crossings, and modernize signalling systems.

Amtrak intends to look to both the private sector and to federal and state sources, as well as internally, to help fund these critical capital needs. States such as Alabama, California, Illinois, Massachusetts, Michigan, Missouri, New

Jersey, New York, North Carolina and Pennsylvania continue to provide leadership and foresight with respect to statewide rail passenger service through financial support for many important local projects. For example, California voters are considering a $2 billion rail bond issue this year that would fund numerous intercity and commuter railroad right-of-way and station improvements. Michigan continues to fund various grade-crossing improvements and track upgrades along Amtrak lines within the state. Illinois has been particularly active in station improvements and, recently, in helping to preserve rail passenger service on the Chicago-St. Louis line. New York has made important contributions to upgrading trackage and service north of New York City and has provided significant funds to the Westside Connection, which is expected to open in April 1991 and will directly tie upstate New York rail service into the Northeast Corridor rail line. New Jersey joined with Amtrak in restoring the Atlantic City rail line.

Amtrak also will continue to look internally to its various revenue-enhancement programs as a source for self-generated capital. In FY 1990, self-generated capital is projected to exceed $50 million and can be expected to grow during the 1990s. Substantial capital for new equipment also is available from the private sector, but carries an added interest charge that must be paid with revenues that otherwise could be used to reduce federal operating support.

Clearly, however, making up for deferred capital investment during the 1980s and achievement of Amtrak's goal of eliminating its operating losses will be possible only with a federal capital investment considerably in excess of the level appropriated to Amtrak in recent years. In addition, the willingness of the private sector to lend Amtrak funds for new equipment depends greatly on the federal government's commitment to share in Amtrak's future. Appropriation of the full $188 million in capital funds requested by Amtrak for FY 1991 will be critical to Amtrak's ability to secure necessary funding from the private sector and to make the capital investments we need to improve and grow. New equipment and plant modernization will require capital funding from all sources -- federal, private, state and Amtrak -- of at least $300 million each year during the 1990s, with larger one-time capital investments for a number of years if we are to make the improvements needed for genuine high-speed rail passenger operations in such congested areas as the Northeast Corridor, both north and south of New York, and the Los Angeles-San Diego corridor.

For several years, Amtrak has advocated creation of a unified surface transportation trust fund, supported by federal gasoline "user fees," that would provide in a consistent and coordinated manner the federal investment in surface transportation. Both Amtrak's depreciation and its expanding capital needs for the next decade could be met by allocating just a penny -- one cent -- of federal gasoline user-fee revenues to Amtrak. With this relatively modest financial support, Amtrak would be able to provide enhanced conventional and high-speed rail passenger service that would alleviate growing air and highway congestion in many areas of the nation at far less cost and with less adverse environmental impact than the enormously expensive construction of new airports and highways. The result would be an Amtrak, free of the uncertainties of the annual appropriations process, ready and able to meet this nation's transportation needs in the next century.

We look forward to working with Congress this year as it examines the nation's surface transportation infrastructure deficiencies and considers proposals for a more balanced and coordinated national transportation policy. As it does so, Amtrak urges Congress to put aside the traditional mode-specific interests that have produced conflicting, contradictory transportation policies and to recognize the importance to our future of a more farsighted and balanced approach. Intercity rail passenger service has an important role to play in this country's future transportation system; capital funding support from a unified surface transportation trust fund would provide Amtrak with the ability to attain its full potential.

B. Controlling Costs

Amtrak's success at improving revenues will not result in a better bottom line unless it is accompanied by success in controlling operating costs. During the 1980s, the rate of growth in revenues far exceeded that of expenses, resulting in a significant improvement in the revenue-to-cost ratio. The new decade will bring numerous obstacles to continuing this trend. For example, legislation pending in Congress to ensure the accessibility of transportation services and accommodations to individuals with disabilities would require capital improvements to the vast majority of Amtrak's stations and possibly changes in the design of new equipment that could adversely impact revenue. Amtrak is committed to providing superior transportation services to our disabled, elderly and other mobility-impaired passengers. Nonetheless, this commitment will generate sizable costs that must be absorbed.

More unique to Amtrak are legislative proposals now pending before Congress that would require Amtrak to retrofit existing equipment to eliminate the current requirement on long-distance trains to release wastes on the right-of-way. As discussed in more detail below, Amtrak supports eliminating this practice. However, retrofitting equipment comes with a high price tag that Amtrak must necessarily look to the federal government to help fund.

A longer-term issue of critical importance will be the ability of Amtrak -- and the willingness of Amtrak's employees to agree to the necessary changes -- to contain spiraling health and welfare costs and changes in outmoded work rules that severely impede productivity and limit Amtrak's ability to pay wage increases. Employee compensation accounts for nearly 60 percent of Amtrak's total operating costs. We cannot hope to meet our goals for the year 2000 without significant improvements in these areas.

1. Waste Disposal From Long-Distance Trains: Amtrak's long-distance passenger cars -- indeed, all long-distance passenger cars in the world -- were specifically designed to release wastes en route in order to avoid the need for periodic stops to empty waste retention tanks. Although three federal government studies have concluded that there is no evidence of a health risk from this practice, Amtrak has come under increasing criticism during the past two years for continuing this practice and several bills have been introduced in the House and Senate that would require Amtrak to retrofit its equipment with new waste systems that would eliminate en route disposal. Several lawsuits also have been initiated by states against Amtrak that seek orders requiring Amtrak to immediately cease releasing wastes en route, a requirement with which Amtrak simply has no ability to comply and which necessarily would require the cessation of train service to that state and, in many cases, other states also served by those trains.

Amtrak recognizes and appreciates the concerns that have been raised regarding this issue. In August 1989, Amtrak initiated an aggressive research and development program to identify the technology for new waste systems capable of retaining up to 72 hours of wastes without emptying. In addition, Amtrak is working closely with the Federal Railroad Administration to undertake the research directed by Congress in this area during consideration of the FY 1990 Transportation Appropriations Act. New prototype waste systems have been installed on Amtrak trains to test the systems for their ability to handle the rigors of transcontinental rail passenger service. Once the new technology is tested, Amtrak will be in a position to advise Congress of the capital costs of the systems for new cars, the feasibility and cost of retrofitting existing equipment, and the operating costs associated with the need to empty and service the new waste systems. Here, too, Amtrak must look to the federal government to provide the capital with which to undertake a retrofit program.

Provisions of several of the legislative proposals on this issue would authorize Amtrak to impose a ticket tax to help pay for retrofitting equipment. However, Amtrak believes such a ticket tax would be counter-productive and actually result in the loss of revenue, since we already consciously try to maximize passenger revenues by charging the highest possible fares in a highly competitive market. Amtrak would support legislation that requires all new passenger cars to be equipped to eliminate the release of untreated wastes on the right-of-way. We also would support a requirement to retrofit existing equipment built after 1971 with new waste disposal systems, provided the specific funds to do so are appropriated for this purpose. Given Amtrak's multi-state operations, however, it is essential that the law be clarified to make clear that Amtrak is exempt from state and other federal laws that go beyond these reasonable provisions and the application of which would necessarily result in curtailing or eliminating much of Amtrak's service.

2. Controlling Costs Through Improved Productivity: Amtrak's considerable success at controlling expenses during the past decade can be attributed in large part to productivity improvements agreed to by the labor organizations representing Amtrak's operating employees (locomotive engineers, conductors and trainmen) and to agreements reached with other Amtrak labor organizations to limit the growth in wages to a smaller percentage than employees of other railroads might expect. These agreements were precedent-breaking in an industry known for its adherence to tradition. Amtrak's operating crews now work on an hourly basis with overtime after eight hours, rather than on the traditional mileage basis. In addition, Amtrak has been able to extend the length of runs and to reduce the size of the crews on many of its trains.

Amtrak and its labor organizations have been attempting to negotiate new labor agreements for the past two years. Under the Railway Labor Act, agreements never expire; rather the terms of the last labor agreement remain in force until new terms are fixed. Amtrak's labor organizations are requesting changes in various work rules, as well as sizable wage increases to bring the wages of Amtrak's agreement-covered employees to the same level as commuter and freight railroad employees. Meeting just these wage concessions would cost Amtrak an additional $84 million each year.

Amtrak very much recognizes and appreciates the impressive contribution its employees have made to Amtrak's success. Nonetheless, at a time when Amtrak is still losing nearly half a billion dollars each year, we cannot meet our employees' wage expectations unless Congress and the Administration acquiesce in an $84 million increase in Amtrak's need for federal operating support -- a 17 percent operating grant increase in FY 1991. The average total compensation during FY 1989 for Amtrak's full-time agreement-covered employees was $45,400. I believe that we must make significant improvements in productivity to justify significant increases in these costs.

In contrast with the major productivity gains that flow from the rules changes negotiated with the operating crafts, Amtrak employees in non-operating crafts -- maintenance of equipment; maintenance of way; and clerical -- continue to work under a multiplicity of rules and agreements, some of which date back to World War I. Non-operating employees presently are represented by 15 different labor organizations and work under

25 separate labor contracts, each with its own seniority classifications and work rules.

For example, in the maintenance of equipment area, we operate under a craft system involving seven different labor organizations and agreements. Some of these agreements establish rigid work jurisdictions under which work is staffed according to task ownership rather than job efficiency. Thus, Amtrak employs 15 electricians to operate overhead travelling cranes for other workers at our Beech Grove facility; the electrician often is not assigned other work even when use of the crane is not needed. At other Amtrak facilities, such cranes are easily operated by the workers themselves regardless of craft. A change in rules to permit the Beech Grove cranes to be operated in the same manner as at other Amtrak facilities could save Amtrak $450,000 per year in reduced wages and benefits.

Similarly, removal of a door operator mechanism from a Superliner car requires a carman to unbolt the mechanism; an electrician to remove the electrical leads; a pipefitter to disconnect the air pipes; and a machinist to remove the mechanism. Re-installation then requires the work of all four employees in reverse. This work easily could be accomplished by a single employee qualified to do the whole job in far less time.

In the clerical support area, Amtrak is trying to rationalize a pay structure that now recognizes 378 separate rates of pay. Such a system preserves -- and even promotes -- inefficiencies. Moreover, some of these rates of pay far exceed the rates for equivalent jobs in the airline and trucking industries. Rationalization of these pay rates recently was supported by a joint labor-management Study Commission undertaken by the TCU, which represents Amtrak's clerical employees, and the National Conference Committee.

3. Health and Welfare Costs: A major concern for all employers in this country is the rising cost for employee health care. Not only are these costs rising faster than inflation for Amtrak, but they are becoming a larger and larger portion of Amtrak's total employee cost.

According to a national survey conducted by Foster Higgins, a Human Resources consultant, the average employer cost in the United States for health care coverage under indemnity plans in 1988 was $2,160 per employee; in Amtrak's case, annual premiums during that year cost over $3,650 per employee. Premiums under the Travelers GA 23000 plan, which provides health care benefits for the majority of Amtrak's agreement-covered employees, totaled more than $84 million in 1989 and are expected to rise to over $100 million -- $4,818 per employee -- this year. Clearly, these costs must be controlled if we are to be able to offer our employees increased wages.

Changing inefficient work rules and controlling escalating health and welfare costs will permit a far more efficient and cost-effective operation. In turn, Amtrak is prepared to share the savings by increasing wages for most of our employees. Higher wages will better enable Amtrak to retain skilled workers and, I am sure, improve employee morale. This must be a give-and-take process, from which both employees and Amtrak's stockholder -- the federal government -- benefit. It is my fervent hope that Amtrak and its labor organizations can reach an amiable, fair agreement in the near future without resorting to congressional intervention to fix agreement terms or to prevent a strike. On Amtrak's behalf, I pledge our commitment to fair and reasonable negotiations with labor, and I know that, posturing aside, our labor organizations are committed to the same. Amtrak's success at eliminating its need for federal operating support, and its role in the future of the nation's transportation system, ultimately depend on this mutual commitment.

CONCLUSION

Amtrak is entering its 20th year in a stronger, more promising position than most anyone could have imagined just five years ago. We can and want to play an even greater role in alleviating the pressures that are so strangling the nation's transportation system and are ready to be a leader in the development and operation of high-speed rail systems. The key, as we have stated so many times during the past decade, will be capital investment in new equipment and plant modernization. The easy answer would be allocation of a small amount of federal gasoline user fee revenues for use by Amtrak to fund its capital needs. I strongly urge the Members of this Subcommittee to support such an allocation in the event the federal gasoline tax is increased and I ask your assistance in finding the resources within the federal budget that we need so badly for the next fiscal year.

Mr. LEHMAN. You get more enthusiastic every year. Keep going. Mr. Carmichael?

FRA OPENING REMARKS

Mr. CARMICHAEL. Thank you, Mr. Chairman, and distinguished members and staff of the subcommittee, and Mr. Claytor and his staff. I am very happy to be here.

I have a formal statement that has been submitted on the National Railroad Passenger Corporation and its budget request for 1991. So, I would like to paraphrase it, myself. First, I want to introduce my staff: Mr. McQueen, on my right, is kind of Mr. Amtrak in FRA's administration. Of course, Mr. Lindsey, Chief Counsel, and Mr. Walsh, our Safety Associate Administrator.

This year, for me at FRA as the Administrator, has been a very educational experience. My adult life has been involved with transportation. I consider the training that I have had through the years has qualified me to be a transportation generalist. From 1976 to 1979, President Carter appointed me to the National Transportation Policy Study Commission. This last year, as President Bush's appointee, working with Secretary Skinner on the National Transportation Plan that we have just submitted has helped me to understand the very critical need that Mr. Claytor talked about awhile ago in solving the problems of urban congestion, the air pollution that we have in these centers, the fuel waste that is occurring and, most important, the safety of our citizens as they travel our air and highways and railways and waterways.

The National Transportation Policy just announced by the President and the Secretary addresses these issues. And the President's budget specifically addresses high-speed surface transportation. The request for $10 million for the maglev research and development could well be part of the answer in helping Amtrak become more cost effective.

All of the high speed rail plans, including Maglev, that I have seen or that are evolving and emerging rapidly around the country, intersect at the city centers and the Amtrak stations. They move on to the major airports, go rapidly across the country and connect with a city center and the Amtrak station, Amtrak terminal and then on out to the airports.

Another reason why I think the $1.2 billion in revenues that Mr. Claytor referred to has occurred besides their excellent management at Amtrak, is that the American people want their trains and are beginning to use their trains. In my hometown in rural east Mississippi, my little city of Meridian, Mississippi, many times you cannot get on the train because it is sold out. And that to me $1.27 billion for 1989 revenues demonstrates to me that the American people are trying to get on the train and trying to use it.

Amtrak's 72 percent of operating ratio is significant. And if they were allowed to operate with the same rules as a competing airline, this figure would change dramatically towards self-sufficiency. I think they are stretching their equipment and their operating procedures to the limits right now. Their safety record has placed them number two among Class I railroads and, in many cases, they are operating in less than ideal conditions to achieve this.

The key element in President Bush's policy toward Amtrak is stated by the Secretary in his appearance before this committee and by the President's budget. There is no self-sufficiency program, yet, and we cannot propose a subsidy without it. As the budget states and as the Secretary has repeated, we are very eager to work with the House and the Senate and Amtrak and the private sector to help accomplish this.

Thank you, sir.

[The prepared statement of Mr. Carmichael follows:]

TESTIMONY OF GILBERT E. CARMICHAEL
ADMINISTRATOR
FEDERAL RAILROAD ADMINISTRATION
BEFORE THE
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION
U.S. HOUSE OF REPRESENTATIVES
MARCH 22, 1990

Mr. Chairman and members of the Subcommittee, I appear before you today to discuss the Administration's position on grants to the National Railroad Passenger Corporation (Amtrak) for FY 1991.

America's airspace is becoming increasingly more congested, with travel times steadily increasing. The United States, however, has a long history of successful innovation in solving transportation problems. The Department's National Transportation Policy, announced earlier this month by President Bush and Secretary Skinner, builds on that skill with its support of a more cost effective Amtrak system.

Under Graham Claytor's leadership, revenues have increased from $612 million in FY 1981 to $1.27 billion in FY 1989, and now Amtrak carries more passengers between Washington, D.C. and New York City than any other carrier. Federal subsidy requirements have been reduced from $896 million in FY 1981 to $605 million in

FY 1990, a reduction of more than 50 percent when adjusted for inflation. As a result, the ratio of revenues to operating expenses has improved from 48 percent in FY 1981 to 72 percent in FY 1989.

Amtrak's management and employees can be proud of these accomplishments that resulted from many cooperative and innovative efforts. Such efforts include agreements on new, more efficient work rules which have become a model for the rest of the railroad industry. For example, Amtrak alone among Class I railroads has replaced the old dual time and distance basis of pay with a pay scale based solely on time worked. As Federal Railroad Administrator, I am particularly happy to note that safety was not sacrificed to improve financial performance. The company has improved safety on the railroad dramatically going from 10.31 injuries per 200,000 manhours worked in 1981 to 5.24 injuries per 200,000 manhours in 1989. This 49 percent increase in worker safety moved Amtrak from last place to second place among Class I railroads.

While Amtrak has made significant strides in reducing operating costs and increasing revenues, it currently requires approximately $600 million in annual subsidies or 10 cents per passenger-mile whereas airline and automobile travel require a subsidy of less than 1 cent per passenger-mile. Clearly, if Amtrak is to continue, it must become much more cost-effective.

Amtrak's objective is to eliminate the need for Federal operating subsidies by the year 2000; however, current budget constraints limit the availability of funds for Amtrak's present subsidy needs. Accordingly, no Federal subsidy is proposed for FY 1991. The Administration is eager to work with Congress, Amtrak, and other interested public and private parties to determine how best to obtain needed capital from the private sector and to make Amtrak services more cost-effective. The Administration has identified a number of changes that would significantly reduce Amtrak's costs. These include legislation to place Amtrak employees under State Workers' Compensation systems rather than the fault-based Federal Employers' Liability Act; to require States to pay a greater share of the costs of routes that Amtrak operates at State request; and to recover from commuter authorities more of the expense of operating the Northeast Corridor to compensate for the costs imposed by commuter operations that use Corridor track and services. The Federal Government also supports the move to allow Amtrak to pay into the Railroad Unemployment fund only the actual amount that Amtrak employees are paid for unemployment and short-term sickness benefits.

As Secretary Skinner indicated in his appearance before this Committee, the Department is prepared to work with Amtrak and the Congress to come up with a plan for moving Amtrak to self-sufficiency.

I will be happy to answer any questions the Committee may have.

Mr. LEHMAN. Thank you, Mr. Carmichael.

We will begin the general questions with you, Mr. Carmichael. The National Transportation Policy speaks of the importance of stimulating state and local investment and private-public partnerships in our transportation systems. In Amtrak's case, the percentage of annual costs being borne by non-Federal sources has increased dramatically in the past five years. Does not the Administration's proposal to wipe out the remaining Amtrak subsidy send exactly the wrong signal to the states, the localities, and to private investors about such partnerships with the federal government?

Mr. CARMICHAEL. Mr. Chairman, I think if they look just at the zero, they can get all sorts of interpretation out of it. If they will look at the comments of wanting to work with the Congress and with the public and private sectors, that is a signal that we know we have some responsibility, but we want to remind the states and the other entities that they have responsibilities, too.

Mr. LEHMAN. Well, as you know, comments do not buy anything.

Mr. CARMICHAEL. But comments sometimes say a lot. [Laughter.]

Mr. LEHMAN. Mr. Carmichael, do you consider Amtrak to offer an essential transportation service? I think you have partly answered that as far as Meridian is concerned.

Mr. CARMICHAEL. That is right.

Mr. LEHMAN. Mr. Claytor, what aspects of Amtrak operations do you consider to be essential, and why?

Mr. CLAYTOR. Well, Mr. Chairman, we have generally looked at our overall service in two parts. The first part is the Northeast Corridor; which is different in that we own and operate most of the track as well as operate the trains over that track. The rest of the country, all the rest of the country constitutes both our long-distance trains and a number of other short-distance trains; but they operate under contract over track owned and maintained by the freight railroads.

I consider each of those segments of Amtrak to be equally important and absolutely essential to our operation. The Northeast Corridor, of course, is the area in which we are definitely competing most effectively with air service and are saving the Federal Government billions of dollars that it would otherwise have to spend in increased air traffic control as well as new airports.

We are providing the rest of the country an essential ground service in both short and long-distance markets. As I have made clear many times in previous testimony, much of our long-distance service serves rural areas that have no other form of transportation. Quite a number of towns have no bus and no air service. Even those that do have very sparse air service.

A typical example is that, for example, our New York to Chicago train, the Lakeshore Limited, making 19 stops, does not carry most of its people from New York to Chicago, which actually is one of the criticisms we get. We carry most of our people between those two end points and the intermediate cities and between the intermediate cities, themselves. The alternatives, such as air service from Utica to Chicago, are abysmal. Most of the people along these long-distance routes use our train. It is their primary form of long-distance public transportation and it is becoming more so everyday. For example, in the last few years, our long-distance market have grown much faster than our corridor trains. The increase in both revenue and ridership has been greatest in our overall long-distance markets. Now, there have been suggestions made from time to time that Amtrak ought to be limited to the Northeast Corridor. That was discussed at length in earlier hearings in previous years. I think that would, in the first place, put us out of business if we tried to discontinue any major portion of our service, because of the labor protection problems and other problems.

To me, the long-distance service and the short-distance service, the Northeast Corridor service that we own and operate and the services which we operate over other railroads; are all equally essential. And the attempt to eliminate either one of them would in a sense terminate Amtrak's capability of being a national transportation system.

SELF-SUPPORTING RAIL SYSTEMS

Mr. LEHMAN. Mr. Carmichael, can you cite any national passenger rail systems anywhere in the world which are self-supporting without a Government subsidy?

Mr. CARMICHAEL. The Japanese railroad system is reported to be doing that. They have separated their operating track from their operating companies that operate on the track. And they are saying that they are self-sufficient.

There is another one that I have seen that I believe is a very good example. When you get into high speed and you start moving people at good rates and competing with the air and the highway, the TGV in France between Paris and Le Mans has cash flowing in such fashion that they are paying off their bonds ahead of time. And the TGV plans for Paris to LeMans at 187 miles an hour high speed transportation. They say the same thing is happening already to their revenue sources there. So, there is a relationship of the high speed surface passenger transportation system.

Mr. Claytor's Amtrak service is 110 and 125 miles an hour in a big part of the corridor. It demonstrates a revenue potential there. These systems, particularly the French system appears to have a good cash flow in high speed service.

Mr. CLAYTOR. Mr. Chairman, I would agree that the TGV type of service in an appropriate area would be profitable. I can guarantee you that if I had a TGV operation from Washington to New York, I could operate it at a substantial profit.

Mr. LEHMAN. Or Boston to New York.

Mr. CLAYTOR. Or from New York to Boston, any of these places. I am dubious about the overall Japanese picture. The Japanese undoubtedly also make money on their bullet train operations. The question of whether the Japanese operate an overall railroad system on a break-even basis, I think the jury is very much out. The reason I say that is that a few years ago when I was at Southern we got the figures on this. The Japanese subsidy to their overall railroad system was about three times the total amount they paid for their national defense. And I do not think that that has disappeared. I think that if you look at the overall railroad system, I would be very surprised, indeed, if the Japanese were breaking even, although they are certainly making a great deal of progress and we are delighted.

The same is true about the European countries. When you look at the whole railroad system, the French national railroad system is a loser that makes our subsidy look like peanuts.

Mr. **Lehman**. Well, give me the right bookkeeper and I could almost make any——

Mr. **Claytor**. That tends to be the case. It is very difficult to compare overall systems that include freight, passenger, low speed, high speed, commuter and everything else all balled together and then allocate the costs out. But I think it is quite clear that the Europeans have shown that the high speed transportation in high density areas can be operated at a substantial operating profit.

POLITICAL SUPPORT FOR AMTRAK

Mr. **Lehman**. At this point, I think it would be appropriate to place into the record the results of last year's vote on the House Floor: 372 to 43 in favor of continued Federal grants to Amtrak. I think this shows the overwhelming and increasing support of the American people for Amtrak. The House votes in response to the people they represent, on that issue in particular.

[The information follows:]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 43, noes 372, not voting 16, as follows:

[Roll No. 316]

AYES—43

Archer
Armey
Bartlett
Barton
Bilirakis
Callahan
Combest
Cox
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Fields
Gillmor
Hancock
Hefley
Holloway
Hunter
Kasich
Kennedy
Kolbe
Kyl
Lewis (CA)
Lowery (CA)
McCandless
McCrery
Miller (OH)
Moorhead
Neal (NC)
Nielson
Porter
Quillen
Rogers
Rohrabacher
Schaefer
Sensenbrenner
Smith, Robert (NH)
Stallings
Sundquist
Upton
Walker

NOES—372

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
[illegible]
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Conte
Cooper
Costello
Coughlin
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dorgan (ND)
Douglas
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
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Shumway
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Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (MS)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
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Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swift
Synar
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Thomas (CA)
Thomas (GA)
Thomas (WY)
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Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—16

Brown (CO)
Collins
Conyers
Courter
Crockett
Dixon
Florio
Frenzel
Hyde
Savage
Schroeder
Tauke
Tauzin
Udall
Watkins
Waxman

□ 1908

The Clerk announced the following pair:

On this vote:

Mr. Frenzel for, with Mr. Tauzin against.

Mr. SHAYS and Mr. WALGREN changed their vote from "aye" to "no."

So the amendment was rejected.

FRA'S SUPPORT IN SECURING PRIVATE FINANCING

Mr. **Lehman**. Mr. Carmichael, the Adminstration's position is that you are eager to work with the Congress and Amtrak to obtain needed capital from the private sector for Amtrak to continue operations. However, the continued proposals to zero Federal funding for Amtrak only make it harder for Amtrak to obtain private capital, since it makes lenders understandably nervous. What exactly are your ideas to assist Amtrak in obtaining private financing and what are you going to do to help them in this regard?

Mr. **Carmichael**. Mr. Chairman, I have visited with investment bankers around the country and I have visited, as Mr. Claytor referred to awhile ago, over in Sweden with one of the big manufacturers of high speed trains.

My role, as I see it in DOT as Federal Railroad Administrator, is to help find these for Amtrak. I see an awful lot of signs of it. Some of the investment bankers I talked to the other day see Amtrak moving toward self-sufficiency and think it is a candidate for privatization in this decade. I do not see the nervousness, I suppose, is what I am saying.

The question that we are asking and eager to work with Amtrak and the Congress is that, as I understand or as I interpret the Secretary and the White House, they need to see a self-sufficiency plan. And I understand that Amtrak is working on it and they are talking about the year 2000. And I believe that will have a lot to do with the Administration's support for Amtrak if they can submit a very attractive self-sufficiency program. And I know that will be sending a major signal to the investment market. The investors tell me and the manufacturers tell me that even now, they are quite willing to work on lease programs and projects to help furnish equipment to Mr. Claytor and to Amtrak.

Mr. **Lehman**. Mr. Claytor, you just borrowed $150 million to buy cars with. What was your rate on that?

Mr. **Claytor**. Mr. Hayward, can you address that?

Mr. **Hayward**. 8.5 percent.

Mr. **Lehman**. How does that relate to prime?

Mr. **Claytor**. Better than prime.

Mr. Chairman, there are a couple of things that could be done—and we would appreciate getting help from this committee as well as from the FRA—that would make our private financing a little easier. Amtrak is tax-exempt, but probably the most effective way to finance the acquisition of equipment is through a sale and leaseback arrangement which we have used.

However, where that happens, a question is raised as to whether or not the cars that we lease that are owned by the other fellow are subject to state taxation. That ought to be clarified because we can get around that through a very complicated system of double leasing, but it would make the financing much simpler to make it perfectly plain by statute that the cars are free of taxation when we lease them under one of these arrangements.

A second problem that we run into is that the Rail Passenger Service Act gives the preferred stockholder, which is the Department of Transportation, a liquidation preference over any other security interest in real estate or new equipment. In other words, FRA must consent to subordinate its interest before we can make one of these financing arrangements.

Now, we have been able to persuade FRA to do this, but it is a difficult problem because the bureaucracy is inevitably—no criticism of anybody—it is just the number of papers that have to be signed and done and the fact that that has to be done as precedent to closing a deal slows the deal up and sometimes pours cold water on the enthusiasm of the investment banker who wants to do this.

What we would like to do is a change in the law to permit subordination without FRA's consent under these particular financing circumstances. That would make it a great deal easier to do this financing than the present. Those are two things that we could suggest to FRA and the committee that would help us.

Mr. **Lehman**. Just to be sure we have this information exactly right in the record, could you provide details on the complexity of your financial arrangements?

Mr. **Claytor**. We will submit something for the record on this in detail.

[The information follows:]

A. Taxation Of Property Leased To Amtrak

Although Amtrak is tax-exempt, we need to clarify that when we lease new passenger cars (as in a sale-leaseback transaction), the cars we lease are also not subject to state taxation either on Amtrak or the lessor. This could be accomplished by amending section 306(n) of the Rail Passenger Service Act as follows:

(1) by adding the words "and/or its lessors" immediately following "Corporation" at each place it appears; and

(2) by adding the words "or their" before the word "expenditure."

B. Obligations Incurred To Acquire Property

The Rail Passenger Service Act gives the preferred stock-holder (FRA) a liquidation preference over any other security interests in real estate or new equipment. FRA must consent to subordinating its interest. A change in law to permit subordination *without* FRA's consent would make it easier to tap into private financial markets. While FRA has consented to our subordination requests in the past, consent is not guaranteed and the need to get FRA approval makes the transaction seem riskier to the private lender.

Mr. **Carmichael**. Mr. Chairman, I apologize for interrupting. I would like to make a quick comment. As the FRA Administrator I understand this type of financing real well. And I do not have any objection in the first part subject to the Secretary's approval, of course; but the second part that Mr. Claytor was talking about is to bypass FRA. FRA is Amtrak's banker and stockholder. We would not be in favor of the second part and we would encourage the Secretary to approve the first part.

LENDER'S CONFIDENCE IN AMTRAK'S FUTURE

Mr. **Lehman**. Last year, Mr. Carmichael, the FRA witness stated that lenders should be "guardedly optimistic" about Amtrak's future, because the Bush Administration was willing to negotiate "an effective result and a long-term plan within the context of the flexible freeze. Surely, for a lender, that is a better message than zero" This year, the message is back to zero. Would you agree that lenders should still be "guardedly optimistic" about Amtrak's future?

[The information follows:]

Yes, there is still good reason for lenders to be optimistic about Amtrak's future. Amtrak has made outstanding progress in controlling operating costs and increasing revenues. Under Graham Claytor's leadership, Amtrak's management and employees can be proud of these accomplishments. Nonetheless, both the Department and Amtrak senior management agree that further improvements are possible and, in fact, that Amtrak can generate sufficient operating revenues to cover all operating expenses and become self-sufficient by the year 2000. Lenders should not be deterred by the zero number. The Department is committed to working with Amtrak and the Congress on a plan for self-sufficiency. This plan is not yet in place and we are reluctant to agree to a specific non-zero budget until we have such a plan.

LABOR PROTECTION LIABILITIES

Mr. LEHMAN. In the event of bankruptcy, Amtrak would be liable for severance payments for its 23,000 workers, as required by section 405 of the Rail Passenger Service Act. Mr. Claytor, what is Amtrak's estimate of these liabilities, and is withdrawal of the Federal subsidy likely to lead to full liability payments?

Mr. CLAYTOR. Elimination of Federal operating support would lead to full labor protection liability at this time. The discontinuance of Amtrak service would trigger a total of $2.7 billion in legally imposed labor protection payments to Amtrak employees over a six-year period.

Actually, the liability for the first year alone, fiscal year 1991, if that should happen today, would be $795 million, which is significantly greater than the amount of operating subsidy we need for FY 1991.

In addition, of course, we have made it rather clear heretofore that Amtrak's roughly $3 billion of assets would probably be insufficient to pay the labor protection claims anyway; because while the book value might meet the necessary claims, it is perfectly plain that an Amtrak out of business has got a lot of equipment for which there is absolutely no market except at extraordinarily low scrap rates. And I do not believe that you could raise but a small fraction of the $2.7 billion of labor protection payments from Amtrak's liquidating value.

The lawyers disagree as to whether that would be a liability of the United States, but we did have an opinion from an outside law firm that under those circumstances, the United States would be liable for that labor protection since this is imposed not by voluntary agreement, but under law.

Mr. LEHMAN. We have asked these same questions every year, but, Mr. Carmichael, how does the Administration propose to finance those liabilities, assuming that the Government is liable?

Mr. CARMICHAEL. Mr. Chairman, I have a fine legal expert sitting beside me and I will let him give the same answer as last year. [Laughter.]

Mr. LINDSEY. I guess the bottom line, Mr. Chairman, is that we would not propose to finance those costs. We believe labor protection would amount to the claim of an unsecured creditor and in two respects would not dip into the pockets of the United States unless Congress decided otherwise.

First, we are Amtrak's largest secured creditor and a very, very large one, indeed. And then, second, even absent the matter of priority in terms of what would happen to the estate, we do not believe the United States would be liable independently for any of those labor protection costs.

STATUS OF REAUTHORIZATION BILL

Mr. LEHMAN. Mr. Claytor, what is the status of the Amtrak reauthorization bill, and what are the funding levels in the conference for fiscal year 1991?

Mr. CLAYTOR. Mr. Chairman, both the Senate and the House have passed fairly similar versions of the Amtrak authorization bill. The conferees have been selected and meetings have been held, but a reconciled bill has not yet actually been passed in the two Houses.

The only real differences in the two Houses is that the House bill includes a provision requiring ICC approval of the sale of a rail line to a non-carrier. No similar Senate provision is in there. And the Administration, I understand, opposes that provision.

Both bills authorize funding through fiscal year 1992 and, again, I am informed that the Administration opposes the multi-year authorization. Now, the funding levels in the two bills are: Fiscal year 1990, $656 million; Fiscal year 1991, $684 million, which is the basis on which we have made our grant requests; and Fiscal year 1992, $712 million. The increases in all these cases being an increase in capital investment funds.

LABOR NEGOTIATIONS

Mr. LEHMAN. Mr. Claytor, Amtrak has been in negotiation with its labor organizations now for some time. What are the major issues in those negotiations and how do those issues affect Amtrak's financial recovery?

[The information follows:]

In the present round of bargaining which began with the parties' Section 6 Notices of April 1988, Amtrak is seeking health care cost containment, work rule changes to increase productivity and pay rate reform. Labor is seeking pay rates at parody with freight railroads plus substantial increases above such party. In addition, they are seeking costly improvements to the health and welfare plan and further work rule changes which would restrict managements flexibility and increase costs.

Amtrak's continued financial improvement is closely linked to these major issues. Labor costs make up over 50 percent of our total cost. In order to break even by the year 2000, it will be necessary to increase productivity and control these costs as much as possible.

Negotiations are presently being conducted under the supervision of the National Mediation Board.

In the current contract negotiations, Amtrak has asked its union to examine areas of waste and inefficiency in existing work rules and ways to better meet modern industrial standards. Some examples of the problem areas are:

1. Starting/workweek restrictions—Although Amtrak's service and its operational needs span 24 hours a day and seven days a week, traditional daylight and/or weekday shift restrictions remain on many union jobs. A prohibition in the clerks' agreement, for example, prevents starting shifts earlier than 5 a.m. This provision does not allow the economical staffing of remote stations with trains scheduled to arrive in the middle of the night. Similarly, while obvious service requirements and traffic considerations make evenings and weekends the best time to perform certain maintenance and construction work involving stations, track, signals, or catenary, the company is commonly forced to handle such work on overtime coverage, or by establishing unnecessary second or third shifts.

2. In some agreements, blanking restrictions force windfall penalty pay for time not worked. Under the clerks' agreement for example, employees called in early or

held over to work part of another shift receive 8 hours of overtime pay even if it is just an hour or two of additional work.

3. Scope rule restrictions in all agreements require employment of full-time positions to perform part-time service. For example, some full, eight-hour shifts exists only to accommodate one or two trains, or an hour or two of work. Part time employees could be used in those situations as well as to help during peak times in reservations and ticket offices.

4. There are many situations where Amtrak receives no return on its training investments. For example, Maintenance of Way employees who are accepted into training programs have no obligation to work the job they were trained for. Likewise, clerks have no obligation to remain on positions after they are trained on them. The company is looking for changes that would require employees to stay on jobs for minimum periods of time in exchange for such training.

5. Employees can withhold services in a variety of ways. Clerks, for example, can elect not to bid jobs and remain unassigned indefinitely, with no obligation to accept assignments of less than 30-days duration. Signalmen and clerks can refuse positions outside a 30-mile "change of residence" radius. Maintenance of Way employees can elect to be laid off when displaced, and need not accept recall to positions outside their preferred work zone. While all such employees remain "on the books" but unavailable for work, the company continues to pay full fringe benefits for them if they work only one day per month. Amtrak seeks to use those employees to fill vacant jobs, rather than continue to incur additional costs by hiring new employees.

6. We are seeking to change rules to allow worksite reporting. Currently, employees report to a designated location and are transported under pay to the worksite. By requiring reporting directly to the worksite we would save from one to two hours of non-productive time per employee.

AMTRAK'S ABILITY TO BORROW FUNDS

Mr. LEHMAN. And just one last comment on private investment in Amtrak. As long as the Adminstration says each year that they have no commitment as far as dollars, the comments might be good, but the dollars are not there, there is bound to be some adverse reflection in the cost and the ability to borrow money. Isn't that true?

Mr. CLAYTOR. Well, it was so true that we could not borrow money at all in the early days of these statements. Now, what has happened, I think, has been that as Congress has funded Amtrak each year, it became clear that we were not in practical danger of being put out of business that year and, therefore, the financial community has been willing to come forward.

The fact is, nevertheless, that this simply is a smaller cloud—but nonetheless a cloud—hanging over us, and does not help us any. It is certainly plain that, as I said in the early days, when the President says he is going to put you out of business by the end of the fiscal year, it does not help your credit rating.

I think, mostly, that has been substantially discounted as a result of the history.

Mr. LEHMAN. It reminds me a little bit of the position that the environmentalists are in on offshore oil drilling. Each year we have to provide a ban on offshore oil in the appropriations bill because there is no long-term authorization to prevent this. So, each year, the environmentalists get nervous just like some of the investment bankers do.

Mr. CLAYTOR. Right.

LABOR NEGOTIATIONS

Mr. LEHMAN. Mr. Claytor, Amtrak has been in negotiation with its labor organizations now for some time. What are the major issues in those negotiations and how do those issues affect Amtrak's financial recovery?

Mr. Claytor. Labor and management exchanged Section 6 notices in April 1988 on wages, rules and health and welfare. Negotiations are now being conducted under the supervision of the National Mediation Board. But with many of our unions, most of our unions, really, we are still pretty far apart on a number of issues.

Amtrak seeks health care cost containment, work rule changes to enhance productivity in our non-operating areas particularly, and pay rate reform.

Labor, on the other hand, seeks pay rates at parity with freight railroads with additional substantial increases above that, costly improvements to the health and welfare plan and further work rule changes which would even further restrict management's flexibility and increase costs.

We are working on these. I would like to see us settle this by negotiation, and I still hope we can. We are getting fairly close with one or two of our unions, but, of course, there are a large number of unions involved, both operating and non-operating. And most of our problem is in the non-operating area.

Mr. Lehman. Mr. Coughlin?

SUBSIDIES PER PASSENGER MILE

Mr. Coughlin. Thank you very much, Mr. Chairman.

We welcome Mr. Carmichael to our Committee yesterday and, so, today let me particularly welcome Graham Claytor who is known worldwide as Mr. Passenger Railroad. What he and the team that he has assembled have done at Amtrak is nothing short of miraculous in my opinion in terms of reviving that system, making it more profitable, making it more efficient, making it more comfortable for the passengers.

I note that Amtrak is now covering a whopping over 72 percent of its operating costs, which makes it one of the most efficient passenger railroads in the world. And I certainly want to congratulate you and your team for a job well done, Graham.

Mr. Claytor. Thank you, sir. We appreciate the great help that we have gotten over the years from this subcommittee, too.

Mr. Coughlin. Well, I wish we were not facing déja vu all over again today. [Laughter.]

In his prepared testimony, Mr. Carmichael indicates that approximately $600 million in annual subsidies for Amtrak result in a 10 cents per passenger mile cost whereas airline and automobile travel require a subsidy of less than 1 cent per passenger mile. Can you comment on that?

Mr. Claytor. Well, of course, the $600 million includes a significant amount of capital investment. And I think capital investment is an investment on which we get a substantial return. I do not know how you calculate the airline or the automobile figures, particularly the automobile figures. But the cents per mile subsidy is straight-forward, except that I would use it only on an operating cost basis and not on a capital cost basis. In addition, as already mentioned, Amtrak must pay back some $200 million back to the government or to support commuter operations.

Mr. COUGHLIN. Can you compare Amtrak with other systems in terms of the subsidy per passenger mile?

Mr. CLAYTOR. It is pretty hard to identify the subsidies for most of the other transportation modes. You have got many of them indirect, under the table. How much count the over $3 billion that goes into the Federal Aviation Administration out of the General Fund every year; an amount nearly three-times greater than *net* air industry profits? How about all of the money that is lost by the Government from the financing of airports and the tax free bonds that are permitted for airports and the other things like that.

With highway, of course, the private automobile is probably our greatest competitor and I do not know how you compare that. I think you are comparing peanuts, apples and oranges all in one mix. It is pretty hard to get a comparison that really makes sense.

FELA AND WORKERS' COMPENSATION

Mr. COUGHLIN. Amtrak could save about $50 million a year, as I understand it, by compensating employees under Worker's Compensation, rather than the Federal Employers Liability Act as you pointed out.

Mr. CLAYTOR. I think the figure we are using is based on percentage-savings that were calculated by the General Accounting Office, which we estimate at $17 million for FY 1991, but it goes up by a major factor every year and it will be 50 shortly.

Mr. COUGHLIN. Would Amtrak employees be just as well off as they are at the present time if you made that change?

Mr. CLAYTOR. Well, I think a no-fault system is better for everyone. And it is going to vary with the individual employee. Some employees, a great many employees will be better off because sometimes an employee who is injured gets no compensation at all. We have a number of cases here in which a jury has just decided that an injured employee is not entitled to anything because it was the employee's own fault. That, I think, is unfair. I think there ought to be a no-fault compensation system for everyone.

Undoubtedly, the fellow who gets a jury to give him several million dollars for a questionable back injury is going to be worse off when he is given a compensation under Worker's Compensation Act, which is compensation measured by the real cost to him of the injury. Others will be better off. So, I think one can argue both ways as to whether employees will receive more money.

Certainly, the costs, including the legal costs, and the administrative costs of the FELA system are wasted by everybody. The employee's attorney get 25-40 percent of any recovery. And it would be an enormous improvement to get rid of that.

Mr. COUGHLIN. Mr. Carmichael, the Administration supports getting Amtrak out from under the FELA and putting it in workmen's compensation. Am I correct?

Mr. CARMICHAEL. Yes, sir. It is in the National Transportation Policy Plan.

RAILROAD RETIREMENT PROGRAM

Mr. COUGHLIN. Amtrak could save about another $50 million a year by setting up its own retirement program or by paying into the Railroad Retirement program only for its employees. Is that correct?

Mr. **Claytor**. Well, what we have suggested more recently is, yes, we could save—we could probably save more than that if we did this. But probably a more practicable solution would be to keep the present Railroad Retirement System which, of course, the employees are very anxious to keep as it is. And provide that we pay only the costs that are needed to pay the benefits to our own retirees.

At the present time, our costs, we are paying around $135 million a year of costs that are above the cost of benefits to our own retirees and hence are going to defray the costs of retirees of the freight railroads and, to some extent, retirees of orphan railroads that have gone out of business and that Amtrak had nothing to do with. And, to me, this is something that ought to be corrected. Fixing that would make a big dent in our operating subsidy right away.

Mr. **Coughlin**. And the Administration, Mr. Carmichael, supports that as well?

Mr. **Carmichael**. In the Railroad Retirement? The Secretary is waiting on the Commission to report.

NEC MAINTENANCE COST-SAVINGS

Mr. **Coughlin**. Also, a considerable part of Amtrak's costs, as I understand it, are the costs and the expense of maintaining the Northeast Corridor which is also used by other commuter agencies.

Mr. **Claytor**. About $47 million a year. We all paid in proportion to our needs—our fully allocated costs—in the Northeast Corridor, an additional $47 million a year of costs would go to the commuters and Amtrak's costs would be reduced by that amount.

Our thought is that basically that ought to come from UMTA, who is supporting the commuter agencies.

Mr. **Coughlin**. If you made all these changes, by about what would Amtrak's costs be reduced?

Mr. **Claytor**. If we included our present costs of FELA, our total thing would come to $279 million, I believe.

Mr. **Coughlin**. Thank you, Mr. Chairman.

Mr. **Lehman**. Mr. Carr?

Mr. **Carr**. Thank you, Mr. Chairman.

It is good to see you again, Mr. Claytor.

Mr. **Claytor**. Sir, it is a pleasure.

403(b) TRAINS

Mr. **Carr**. Mr. Carmichael, welcome. I only have a couple of questions. One is the state operated or state subsidized trains, we refer to as 403?

Mr. **Claytor**. 403(b) trains.

Mr. **Carr**. People back in Michigan tell me there is some discussion about a 403(b) train between Detroit and Lansing and they have told me that one of the obstacles to that train is the availability of cars.

Mr. **Claytor**. Yes, sir. That is a limit we are facing in all of our operations, including 403(b) operations. As a matter of fact, a third train was put on the San Joaquin Valley in California and could only be put on when the State of California produced all the equipment for us, including the locomotive. That is the problem we face.

You cannot put on additional equipment when you do not have anything to run with it. That is a problem that has been getting more severe every year; but right now it is critical.

Mr. CARR. What is the way out of this? I mean we have opportunities here. The states want to get into the act. Not that I agree with the financing of the proposed National Transportation Policy, it says get the states going. And my own state, I know, that wants to get going on a new line.

Mr. CLAYTOR. Well, the State of California put up the money for the equipment. Now, if the states are prepared to do that, I think we can immediately work on it; but unless we have the equipment in hand or the state is prepared to provide the equipment, I do not think it is possible to do.

Mr. CARR. Well, things like this and so many other questions that I might have which do not have a bearing on this particular hearing, I would like to have your congressional liaison folks stop by sometime and have a discussion with them.

Mr. CLAYTOR. He is sitting right on my left and he would be delighted to do that. We will put it on the calendar at once.

WASHINGTON UNION STATION

Mr. CARR. A couple of things—your statement here does talk about the magnificent Union Station here. I think we are all very proud of that, whether we are taking the train or not.

Mr. CLAYTOR. Yes, sir.

Mr. CARR. It seems that the construction around the track area, the passenger area, not the other concourses, that construction is going on forever.

Mr. CLAYTOR. It is on schedule and on budget, but the schedule calls for it to be completed at the end of next year. It is a very extensive change to improve the ability of passengers to get on their trains. And it has to be done under load. It could be done much faster if we shut the train station down. We cannot do that. So, when you are making this type of construction under service, it has to be done very carefully. You can only take one track at a time out of service to put a new platform in, for example. If you took more than one track out, you would not be able to get the trains out of the station. That is the problem.

Mr. CARR. Yes, I understand.

Mr. CLAYTOR. But we have a schedule and it is on budget and on schedule.

TRAIN SCHEDULE INFORMATION

Mr. CARR. One of the problems that I have encountered, just as a customer of Amtrak over there, and I have discussed it with some of your people is the fact that trains, apparently, they come into the top of the yard there and then they have to wait to get a track and then when they finally get assigned a track, somehow or other, there is a delay in getting that track change information up on the monitors. There have been a number of times when just as a consumer I have been over there to meet somebody on the train and the next thing I know, the train is off the monitor and I have missed my party and a whole host of other things.

Mr. CLAYTOR. I would like Mr. Gillespie to address that.

Mr. GILLESPIE. We have talked about this, Congressman. We have looked into the situation that you described. That was just a goof on Amtrak's part. It was a communication problem between the tower and the people that work that board, but I have related this problem to our people and that should not occur again unless somebody makes a mistake. But the idea is to get that word out to the passengers as quickly as possible.

Sometimes these decisions, as in this case, was just made at the very last minute and by the time they got word up there, it was obviously too late.

Mr. CARR. Well, one of the differences of a train station over an airline, they can change a gate, but ultimately you can find somebody, a baggage handler, there are funnel points, choke points through which you can meet your party. But in a train station where the train station just sort of leaks from all sides of people, you can really have a major problem. That is an advantage in one way, but in another way, it puts a premium on good information.

Mr. CLAYTOR. We recognize that and it is a problem we are going to try to avoid. We do goof, like anyone else once in awhile, but whenever a goof like that occurs, we take action to see what we can do to prevent that from happening in the future.

PHILADELPHIA 30TH STREET STATION

Mr. CARR. Your staff was most responsive to just my ordinary consumer question.

While Union Station is doing all right, and the question probably should come from my colleagues from Philadelphia, Larry Coughlin and Bill Gray, but I have had occasion to go through the Philadelphia station a couple of times, and you have got the meanest pigeons inside the station. [Laughter.]

I have never met a feisty pigeon before I went to Philadelphia. They will not move out of your way. You have got to walk around them. What can you do to get the pigeons out of the station?

Mr. CLAYTOR. Well, the 30th Street station is also under major renovation. And, again, it is on budget and on schedule and the station portion should be completed by the end of this year. And it is going to be beautiful. If you have noticed the ceiling that we have partially finished, it is restored the way it was originally intended to be, and the rest of the station is going to be beautiful.

Mr. CARR. You are absolutely right about the ceiling, but it is the floor. I was sitting there one day and a pigeon walked up to me just as much to say, "What are you doing here?" [Laughter.]

Mr. CLAYTOR. We try to keep the pigeons out, but while construction is underway, it is not easy to do.

BAGGAGE CHECK-IN SERVICE

Mr. CARR. Is it possible, or I am sure somebody has over there has thought about check baggage and what can trains do to accommodate passengers with really heavy luggage loads. The train seems really convenient when you are taking a few bags on, but, by golly, you know the whole idea of having—even with the Redcaps and they are very nice and everything, hauling all that stuff onto a train, there is no real place to put it, the train is crowded. You are just crawling all over one another. Is there a way——

Mr. CLAYTOR. We have checked baggage for all of our long-distance trains to all of our major stations, but we do not have much checked baggage—we cannot afford to have checked baggage—on the Metroliners or our non-reserved short-distance Corridor trains because we have not got that much demand for it in the first place. And in the second, to have a baggage car on that train is going to slow the train down. We have the maximum consist on that train to hold the people that we want to have to make those very high speeds. It would not be feasible to try to check baggage on, say, the New York-Philadelphia or the Washington-Philadelphia, Washington-New York area. We do have checked baggage if you are going from Philadelphia to Miami. You have checked baggage both ways. And we have in the Union Station in Washington the most modern type of handling for checked baggage, with the standard airline carrousels and the baggage is brought up and put on the carousel. So, that is what we hope to and would like to have in other places. That is the first place we have been able to do that. But, we do have checked baggage for our long-haul trains.

STATE PROPERTY TAXES

Mr. CARR. You mentioned the sale-lease back problem and the fact that it is unclear about your taxation. What states are we talking about here?

Mr. CLAYTOR. All states. It varies from state to state, but nearly all states have state property taxes.

Mr. CARR. I understand that, but is there one or two states where you do most of your business and they are causing the bigger problem?

Mr. HAYWARD. California is a state that has always had in effect a personal property tax and a use tax on railroad property. But if you say we were to start at Boston and run a train to Washington, you have perhaps three states along the way where there might be a significant exposure and others where it is not an exposure at all. But since we cannot just take new equipment and put it into service in one state, we cannot steer our way around that kind of an exposure.

Mr. CARR. But is the exposure just because you transit a state?

Mr. HAYWARD. Yes, sir. In some cases, it is where we put it into revenue service for the first time.

Mr. CARR. Does your reauthorization attempt to deal with that problem?

Mr. HAYWARD. We have not so far laid that specifically on the table.

Mr. CARR. Other than making the suggestion before an Appropriations Committee, what have you done or what are you planning to do to clarify that situation?

Mr. CLAYTOR. We will propose this to our authorization committee the first time we have a vehicle on which this kind of an amendment might be added. You see, both the House and the Senate authorization bills have been passed, although a reconciled measure has not yet been fully enacted, and the bills cover both this year and next year. And unless we find a vehicle on which we can put this kind of an amendment, it is fairly hard to do; but we will continue to watch that and we have found vehicles from time to time in the past and we will continue to do that.

Mr. CARR. Is there any litigation that would help answer that?

Mr. CLAYTOR. No. We can generally avoid this problem by making a somewhat more complicated arrangement. And that is what we have done once or twice before. I think it is simpler and it might save us a little money in interest rate if we could avoid the complications of having to avoid this problem.

It is a risk. And once the risk is there, the investor does not want to take the risk. So, we have to get rid of the risk one way or the other.

Mr. CARR. I have no further questions. Thank you very much.

Mr. LEHMAN. Thank you, Mr. Carr.

Mr. Wolf?

Mr. WOLF. Thank you, Mr. Chairman.

Mr. Claytor, I want to welcome you and the other witnesses to the table and really congratulate you. I think you are really doing a fine, fine job. Anyone who rides the trains over the last 10 years can see the major improvement. I just want to acknowledge that. I think you have done very well.

Mr. CLAYTOR. We are still working on it, I can assure you.

ELIMINATION OF OPERATING SUBSIDIES

Mr. WOLF. I am sure you are.

How certain are you about your statement that you will be able to operate without operating subsidies? You mentioned the year 2000. Is that a hope or is that a guess? Or do you feel that if things continue the way they have been, you will reach that?

Mr. CLAYTOR. I look at it this way, Mr. Wolf, that from 1981 to 1989 we went from 48 percent to 72 percent. In 10 years, if we can continue that annual increase, we would make it. Now we can only continue that kind of annual improvement if we have enough additional equipment to be able to handle the additional business, because you do this by holding down your costs, not eliminating them, but holding them down, preventing them from increasing and by increasing your revenue. Your big item is increasing the revenue. We have to increase the revenue to do this.

Now, we think there are ways and means in which we can do this in 10 years. But I can assure you this is not a certain thing. One cannot sit down and draw a specific plan for exactly how this will happen. For example, if business remains good, and generally, travel is good, then, we will probably make it easily. If we have a serious recession, I do not think we will make it, because we must depend on additional revenue and additional revenue is additional travel. And our experience indicates that when a serious business turndown occurs, discretionary travel, which is most of long-distance travel, goes way down for everybody.

So I think we have a reasonable probability of doing this and we know how to go at it. It is a continuation of the kind of progress we have been making; but there is not any way one can say, "We can press a button and do this."

Mr. **Wolf**. I understand that.

Mr. **Claytor**. It is going to depend a lot on the nature of our business.

AMTRAK'S BUDGET REQUEST

Mr. **Wolf**. What is your request this year, again? How much are you asking?

Mr. **Claytor**. $684 million is the total request, of which $188 million is capital. Most of it is capital. $495 million in operating assistance is one of the lowest operating subsidies we have asked for a long time.

Mr. **Wolf**. You do not have to do it now, but could you submit to me or for the record what you expect it would be over the next nine years? Would that $684 million figure remain, with the rate of inflation factored in, would it remain relatively stable?

Mr. **Claytor**. No. It is going to depend on a lot of things. Now, we have said in our testimony that in order to make this thing as close to sure as you could do, what we ought to have is a penny of gasoline tax money.

Mr. **Wolf**. I saw that, yes.

Mr. **Claytor**. That would enable us to do the things that I was talking about in my statement which will make an enormous difference. Our normal need for capital to increase capacity does not include such things as electrifying New Haven to Boston, or buying this extensive new high-speed equipment and turning New York to Boston into a high-speed railroad. There is an enormous profit potential in that and enormous savings of money to the Federal Government, because if we do not do it, you are going to have to build a new airport at Logan Field. A high percentage of all the flights out of Logan Field go to New York. If we can get to New York by rail in the time we now get from New York to Washington, we will take 30 to 40 percent of that business on the train and you will not have to build a new airport at Logan Field.

Now, those are factors that are heading us into the future. We know what we can do if we can get gasoline tax money. The kind of money we are asking this year and next year would not include the kind of money that would enable us to do that, but that would expedite and certainly make much more sure our ability to break even.

DEDICATED FUNDING SOURCE

Mr. **Wolf**. Would the one penny a gallon gasoline tax—is that part of the operating subsidy? Would that end in the year 2000?

Mr. **Claytor**. The penny would fund mostly our capital needs. If we could use any of that money for operations we would use less and less of that as the operating subsidy. It could give us 100 percent of what we need for operating subsidy right now, with about better than three-quarters of it going to additional capital. And that would enable us to do these things that I am talking about about high-speed rail.

Mr. WOLF. I understand. Then that one penny a gallon gasoline tax that you are requesting or talking about would end roughly around the year 2000?

Mr. CLAYTOR. I have not thought that far. If we had it to the year 2000, I know we could do this job. I would hope that once we are breaking even, we would not need nearly so much capital. The problem of breaking even, I have never claimed that we could become profitable by the year 2000. What I said was that we could cover our operating costs and we would still require capital. How much of it we can raise ourselves through the possibility of real estate development, and we have got some substantial possibilities there, when that comes to fruition, I think our major real estate developments would start to pay off in 10 to 15 years from now. And that might cover all the capital we need, too.

Mr. WOLF. Well, I am just trying to get some sense on the penny a gallon gasoline tax. Are you talking about to the year 2000?

Mr. CLAYTOR. Yes.

Mr. WOLF. Are you talking about in perpetuity?

Mr. CLAYTOR. No, no. I do not see any need for it in perpetuity, unless there are other—if I were in the year 2000 and it is decided that we need to build a TGV type train from Los Angeles to San Francisco, which is a multi-billion dollar operation, and you wanted Amtrak to raise the money to do it, we might want to take that money and do it. But short of something like that, no.

Mr. WOLF. What would a penny a gallon gas tax give you in a year?

Mr. CLAYTOR. About a billion dollars.

Mr. WOLF. Every year?

Mr. CLAYTOR. Yes.

Mr. WOLF. And who would that go to? Just to Amtrak or would it go——

Mr. CLAYTOR. That penny would go to Amtrak provided, of course, that this subcommittee agreed to appropriate it. Now, any transportation tax of this sort, much more than the one penny, would go for other transportation problems, both air and commuter, I am certain. The one penny is what we would need if we are going to do the kinds of things I have been discussing.

FARE PRICE COMPARISONS

Mr. WOLF. How does your ticket price compare, comparability, to the ticket price, say, in Japan for an equal distance?

Mr. CLAYTOR. Well, our ticket price is set at that level which will produce the highest revenue. The Japanese or the French may very well set theirs differently for other reasons, because it is a governmental operation. And as a matter of policy, they may decide they want a low price to get a lot of people riding. But ours is set in the light of the competition, at that level which in our opinion will produce the most revenue. And that has been our policy for a long time and still is.

IMPACT OF SUBSIDY REDUCTIONS

Mr. WOLF. What would happen without the subsidy?

Mr. CLAYTOR. Without any subsidy? We would close down about the end of the fiscal year. We would close down promptly because——

Mr. WOLF. If the subsidy were cut in half?

Mr. CLAYTOR. That would close us down, too.

Mr. WOLF. Three-quarters?

Mr. CLAYTOR. Well, that would close us down—one-quarter would probably close us down.

Mr. WOLF. What I am trying to do, Mr. Claytor, and I am not against you.

Mr. CLAYTOR. I know. I understand.

Mr. WOLF. I am trying to get you in your personable way to tell us what the reduction of the subsidy would mean to the operation of Amtrak and all the people who want to ride on Amtrak.

LABOR PROTECTION AGREEMENTS

Mr. CLAYTOR. Let me explain the situation. The thing that has got us fenced in from making any reduction, any significant reduction in service is the labor protection statute and the agreements that we entered into in accordance with that statute. If we cut out a train, we have to pay every employee who loses his job as a result of that reduction six years of pay over the next six years, if he has had as much as six years seniority, and most of them have.

So, when you cut a train out, the cost of labor protection is going to be significantly more than the savings on not running the train. So, that puts you in this kind of a bind that if we do not have enough operating subsidy to keep running the trains, we have to incur labor protection and we can go bankrupt.

Mr. WOLF. I understand.

Mr. CLAYTOR. So, of course, a reduction—a substantial reduction—in our operating subsidy will put us out of business. That is what the problem is. Now, of course—if we were able to get rid of these things we were talking about, the excess railroad retirement taxes, the unemployment insurance taxes, excess claims due to FELA, and the commuter operations—that would save $216 million right there, and I would be quite happy to immediately knock off dollar-for-dollar, all the savings that we get out of this sort of thing, out of our requests for subsidies.

Mr. WOLF. Are those labor guarantees in perpetuity, or do they expire?

Mr. CLAYTOR. They are in perpetuity; that is right.

Mr. WOLF. So, you never get out of it; each time you hire somebody——

Mr. CLAYTOR. Conceivably, Congress could pass a statute, phasing it out over the years.

Mr. WOLF. Have you asked the Congress to do that?

Mr. CLAYTOR. I have not, because it is perfectly plain that that is not going to get anywhere, and labor will oppose it violently, and I have enough problems with labor without taking them out on that one, which I think is a hopeless job.

Mr. WOLF. Well, it does seem, though, that after a certain point, if you are making a vital operating railroad, what you do by maintaining those labor protections is almost a prophecy of failure; it is an indication that you do not expect to succeed. And I understand the labor protection guarantees for a period of time, but in perpetuity——

Mr. **Claytor**. As an old railroad man, Mr. Wolf, I am violently opposed to labor protection provisions of any kind, and always have been, and have opposed them on my freight railroad to the maximum extent. Labor protection is a program for inefficiency; it freezes you into areas you do not want to be frozen into, and I could not agree with you more. But, as a practical matter, I have lived with this for 25 years, and it is practically impossible to do anything about it. I would support such a proposal if Congress would put it up; I think that it would be a mistake for me to propose it as such.

Mr. **Wolf**. I understand; my colleague made a very good point, that you are really basically asking 1 percent gas tax to keep those labor protection agreements in perpetuity, and part of the time, there will be—I promise you, there will be—a time that someone will have to step forward and say that enough is enough. I mean, clearly, you had an obligation to those people who have been in the Pennsylvania railroad and have been involved for all these years, and there was a transition taking place. And you just cannot push people out that have families and loved ones. But there was a time when you hired a nineteen-year-old young man from southwest Philadelphia who joins the railroad and then starts; you cannot guarantee him perpetuity for when that person gets to be 50. So, there really will be a time that you just cannot duck and say, "Well, I have lived with this long enough and I am not going to go through it." There will be a time when you are going to have to say that we would like to have this, and your legislative package will have to have that.

Mr. **Claytor**. Let me explain something: We are not prevented from firing anybody if we do not need him. Labor protection is invoked only if the result is from discontinuing a train. In other words, if I develop an efficiency so that I can run the train with half as many people, I can fire that other half right now; I do not have any problem on that.

Mr. **Wolf**. Only on a discontinuing——

Mr. **Claytor**. This is not a freezing of the labor force; only when someone loses his job solely as a result of the discontinuance of an existing operation, that is the only way that he gets any labor protection.

DOMESTIC/FOREIGN EQUIPMENT PURCHASES

Mr. **Wolf**. Two last questions, if I can. Where do you purchase your rail cars and your engines? Are most of them purchased in the United States, or most of them purchased abroad?

Mr. **Hayward**. Initially, Amtrak bought all of its locomotives and cars in the United States. We had the Pullman Company and the Budd Company, U.S. manufacturers, that provided cars. Both of them left the business, have sold the rights to production, the patents, the jigs and the dyes to a firm in Canada that goes by the name, Bombardier. The most recent order of cars that we acquired was from Bombardier, which maintains an assembly plant in Vermont so that the U.S. content of that equipment fully satisfies the Buy America requirements. We have also recently bought from the electromotive division of General Motors, U.S.-made electric locomotives that have a major Swedish content in them. Again, General Motors satisfies all Buy America requirements. In addition, we have bought our diesel electric locomotives from General Motors Electric Locomotive Division.

RAILROAD EQUIPMENT STANDARDS

Mr. WOLF. Has there been any thought given, if the Justice Department would permit it, to get together with other railroads and see if there may be a way of developing some sort of standardization, some sort of consistency? And I understand that the administration negates this in some respects, because if they are going to keep coming up every year, opposing you.

Mr. CLAYTOR. Well, we have not had any problem with that. Most of the passenger locomotives in this country are the F-40 locomotives that General Motors makes. General Electric may be getting into passenger locomotives currently; they have had some in the past. For instance, if Jersey Transit is going to buy 25 of these locomotives, we can tag onto the end of that order with another 25 and save money.

Mr. WOLF. What about for rail cars?

Mr. CLAYTOR. Same thing; we did that with our——

Mr. WOLF. But you are saying now that there is no one in the United States that makes the rail car; right?

Mr. CLAYTOR. As such, but these foreign companies are assembling the cars at plants in this country so that they meet the 50 percent American content standard, and therefore meet the Buy America rules.

NORTHERN VIRGINIA COMMUTER RAIL SERVICE

Mr. WOLF. Mr. Conte said the wrong state; they should be in Massachusetts. [Laughter.]

The last two questions. Do you have any comments to make about the commuter rail situation that the State of Virginia is trying to bring about?

Mr. CLAYTOR. We have a contract to operate those commuter trains, and we plan to do so. We understand that they placed an order for some equipment already, and of course, one of the problems is that there is pending in our authorization bill a provision that is needed to enable them to operate in the District of Columbia; and I hope that will pass.

Mr. WOLF. So do I. Why do you think that it took so long? Do you think that it was necessary to get that permission? Could that not have been granted without the legislation?

Mr. CLAYTOR. Well, it is somebody else's railroad.

Mr. WOLF. I know.

Mr. CLAYTOR. I pushed very hard to persuade Conrail to go ahead and agree to this, but I was no more successful than anyone else.

ADMINISTRATION FUNDING POLICY

Mr. **Wolf**. My last question is, and this is just a guess: Do you believe that the administration really wants to eliminate the subsidy now, or do you believe basically that it has gotten into whereby the targets have to be met for Gramm-Rudman, and this is a certain savings that you can kind of cut out, paste on and send out? Where do you think they are with regard to that?

Mr. **Claytor**. I am really not in a position to know; I have not got any independent view on that.

Mr. **Wolf**. What is your guess?

Mr. **Claytor**. Well, I am hopeful that they really are just trying to reach the Gramm-Rudman limit; they have said that they are not trying to put us out of business; they want us to be self-sufficient. And I think that that is correct.

Mr. **Wolf**. Have you sensed a change in the attitude from what it was, say, six or seven years ago?

Mr. **Claytor**. Yes, yes; definitely.

Mr. **Wolf**. And the attitude has been getting better?

Mr. **Claytor**. Better, much better; yes. The initial Reagan administration position was that Amtrak ought not to be here. If there is anything that Amtrak does that is worth doing, private enterprise will pick it up. And therefore, let's put them out of business to see what happens.

Mr. **Wolf**. But that attitude has changed.

Mr. **Claytor**. That attitude is gone, I think.

Mr. **Wolf**. Therefore, your bankers are in the audience.

Mr. **Claytor**. I think that attitude is gone; yes.

Mr. **Wolf**. Would the Federal Railroad Administration want to make a comment with regard to that?

Mr. **Carmichael**. I think that you are interpreting it pretty well. [Laughter.]

Mr. **Wolf**. Thank you very much. Thank you, Mr. Chairman. Thank you very much.

Mr. **Lehman**. Mr. Durbin.

Mr. **Durbin**. Thank you, Mr. Chairman. I only have two questions. First, I would like to say, Mr. Claytor, from a Federal perspective, it appears that President Reagan gave up on Amtrak. President Bush gave up on Amtrak, but you and your team at Amtrak and Congress have not given up on serving our nation's rail passengers. Your record is extraordinary. People in Federal service are often criticized for not having their eye on the bottom line; you have had it on the bottom line for a long time, and you have got the results to show for it.

Mr. **Claytor**. Mr. Durbin, I appreciate the comment, but let me say that I am just one member of a team that has had it on the bottom line, and my team, including the gentlemen sitting on my right, are the ones who are really dedicated to this, and I fully support them. I came in and found that there was that feeling in our team. We have developed it since, and we solidly believe that we have got to operate on a bottom-line basis; that is going to be our policy from here on, so long as this team is here.

Mr. **Durbin**. I second your comments, and I would still add that it has a darned good captain. I think that you have done a great job in that regard. Let me personally thank you and the officials from Amtrak, Mr. Gillespie and others, for your cooperation on the new smoking policy on Amtrak.

Mr. CLAYTOR. Yes, sir.

IMPACT ON MIDWEST RAIL PASSENGER SERVICE

Mr. DURBIN. We have been talking about this for a few years. I think the new policy you announced is going to be a major step forward, not only to protect non-smokers among your passengers, which I understand account for about 75 percent of Amtrak riders, but also to give those who continue to smoke at least some opportunity to do so without impinging on the health of others. I thank you for this. I think it will work out well; it has so far on the airlines. The reports are very positive since we have gone to a total ban on virtually all flights in the United States.

In the very limited time I have before I have to go to a budget committee meeting I would like to ask you about the President's budget proposal; President Bush is again echoing President Reagan's call to eliminate Federal assistance to Amtrak. Can you tell me what impact this budget proposal would have on rail passenger service in the midwest? The reason I ask that question is that usually administration officials quickly add that rail passenger service on the northeast corridor is so heavy that some private company will move in. Those of us who live in the midwest and the west have a little different concern. What is your opinion?

Mr. CLAYTOR. Well, I do not think that a private company will move in the northeast, either, because the amount of money lost in maintaining the northeast infrastructure is approximately equal to what is lost in operating our trains in the rest of the country, and I think that if, in fact, there was no operating subsidy at this time, we would lose passenger service everywhere.

Mr. DURBIN. Midwest as well as——

Mr. CLAYTOR. Yes, yes.

Mr. DURBIN [continuing]. Across the nation, is what you are saying.

Mr. CLAYTOR. Yes; the nation.

Mr. DURBIN. Are you saying, then, that the revenue cost ratio for service across the country is roughly comparable, or are there highs and lows in terms of——

Mr. CLAYTOR. Well, there are obviously highs and lows on individual trains but, generally speaking, yes. The total amount of money that is lost on the corridor versus the noncorridor is not too disparate.

Mr. DURBIN. It is comparable, is what you are saying.

Mr. CLAYTOR. Yes.

Mr. DURBIN. There are those who argue that the Federal subsidy to Amtrak really benefits the northeast corridor over other parts of the Amtrak system. Do I understand from your response that that is not accurate?

Mr. CLAYTOR. I think that that is absolutely not accurate.

Mr. DURBIN. The last question: We have a proposal from the administration for a passenger facility tax for airline passengers. In your literature you note that you are operating in a competitive environment. In many cases, you are competing with commuter airlines for service. For example, in my home town of Springfield, Illinois, the service to Chicago or St. Louis is in direct competition with commuter airlines.

Mr. CLAYTOR. Yes.

COMPETITIVE FARE INCREASES

Mr. DURBIN. If a passenger facility tax is imposed—let us say that it is three dollars a ticket, for example—for some airport facilities, and the administration's recommendation to increase the aviation tax from 8 to 10 percent is approved. Will that give you some flexibility to consider fare increases for capital improvements or retrofitting for waste retention?

Mr. CLAYTOR. Our policy, as I mentioned, is to set our fares at that rate which will produce the most revenue. It will continue to be that. Now, if the airline costs are raised, that will give us a little more flexibility to raise more money. A tax on Amtrak passengers would merely mean that we would be able to raise our fares to a lesser extent. We would get the same money without the tax as with the tax. Now, as I understand it, the air tax is going to be used primarily to fund things that enable the airways to operate. And I think that that would be perfectly fair, if that is the way that they want to do it. However, any increase in air costs is going to enable us to get closer to breaking even by enabling to competitively raise our fares.

And I have mentioned another factor here: should economic forces or anything else double the price of gasoline and aviation fuel, we would be in a position to move very much more rapidly toward break-even on an operating basis because that would immediately enable us to raise our fares. This is the competitive marketplace in which we operate. But I emphasize that our policy is and has been to set our fares at that level which will produce the maximum revenue.

WASTE RETENTION SYSTEMS

Mr. DURBIN. My last question: In your comments, you suggest that retrofitting would be very expensive. Do you have an estimate of the cost?

Mr. CLAYTOR. No; we have not yet been able to test the new systems. They are in the process of being installed right now. So, we will have that information in the next several months. But it is perfectly plain, I think, that on Heritage sleeping cars, it will probably not even be feasible; the cost will be too much. They will have to be replaced by the Viewliner cars, which would be initially built so as to retain wastes.

Mr. DURBIN. Thank you, Mr. Claytor. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts. [Laughter.]

Mr. LEHMAN. The gentleman from Massachusetts.

Mr. CONTE. That is the way they come from Illinois. [Laughter.] Furthermore, Mr. Claytor, he is too young to remember some of the battles we had to save Amtrak.

Mr. CLAYTOR. Yes, sir.

ZERO FUNDING FOR AMTRAK

Mr. **Conte**. Good morning. It is good to have you, Mr. Claytor and Mr. Carmichael. It is a pleasure to see the dynamic duo of railroads sitting side-by-side. Now, if we could only get the good guys to see eye-to-eye on Amtrak subsidies, then, I think we would be on the right track.

Over the last year, there has been a lot of talk by Secretary Skinner and by you, Mr. Carmichael, about the great job Amtrak is doing. But when push comes to shove, the budget ended up with a big fat zero for Amtrak. Why praise Amtrak with words and then bury it with no action?

Mr. **Carmichael**. Congressman Wolf awhile ago pretty well indicated that his analysis of the change of direction. The rhetoric in the budget, I think, is very honest and very legitimate rhetoric. My opening statement, made personally, was that Mr. Claytor has got some plans for self-sufficiency. As I understand the Secretary and the White House, they would like to see the plans. To make a proposal for funds without some sort of plan in the deficit condition that the President finds himself in at this point, is not good business. And we need to see the proposal; personally, I would like to see the one-cent fuel tax that Mr. Claytor is talking about; I would like to see some projections on what it does and how it would work in this nine-year period that we were just talking about.

As I interpret it, the message from the Secretary and from the President is that we feel that Amtrak has a role to play in surface transportation, high-speed surface transportation, and the bankers even tell us that it has a potential for being self-sufficient, moving toward that goal. If you start moving people at high enough speeds and enough frequency, you do the same thing you do with airlines: You make a profit. And so, high-speed surface transportation and Amtrak have some sort of common destiny. And the administration is moving toward studying quickly the exciting things that are happening in high-speed steel and maglev, and Amtrak's role in that. To me, when the President appointed me to be the Federal Railroad Administrator, he knew that I was a passenger supporter, and I am also a team player with my President and my Secretary. I think there are significant signals being sent to Mr. Claytor and to the Congress that we have to have a plan; we are open to looking at it.

Mr. **Conte**. I think that it is a fair plan; we are all team players. Sitting as a Ranking Member of the Appropriations Committee, and sitting on 13 subcommittees that bounce around, I get upset. You know, you say we have tight money budget problems, and we have. And I just came from down the hall a piece here, and we had the supercollider: $5.9 billion. Admiral Watkins came in the other day and he said, "Eight billion dollars, and going up, you know, like the temperature."

I go to Mr. Traxler's committee and hear about the space station. They are talking about a space station. I go to the Foreign Operations Committee, a half a billion dollars for Poland and Hungary; half a billion dollars for Nicaragua; a billion dollars for Panama; I do not know how much for the Philippines.

And everybody picks on Amtrak. If they gave Nobel laureates for railroad men, this guy here would get a Nobel laureate. You have done a fantastic job, Mr. Claytor; a miracle. I remember what the subsidy was in the good old days on Amtrak, and what the subsidy is today.

I believe in a balanced system, as does the Chairman and some of the other Members of this committee. The airports are getting crowded; you cannot get into LaGuardia and Kennedy anymore, Logan up in Boston, the same way. Your roads are congested; you cannot move on the highways anymore. The railroad is the answer; thank God that some of us had the foresight to hang in there years ago and fight to keep Amtrak. I think that you are going to see it in the not-too-distant future; it will play a very critical role in the system.

And then, I think also that you guys can get partisan up here and whack the administration, but I have been around here 32 years, and I have seen that ball game played before in this game. The President knows pretty damn well that whoever is up here is going to put that money back in for Amtrak, and for some of the other things that we feel are necessary, and it is not really a crusade to go out and try to kill Amtrak.

NEW HAVEN-BOSTON ELECTRIFICATION

Mr. CONTE. Mr. Claytor, since we are gazing into a crystal ball, let me ask you about electrifying the track between New Haven and Boston. We have done a lot of work on this committee over the years. I know that you recently looked into the Swedish rail electrification technology. What can you tell us about the technology and, specifically, with regard to costs?

Mr. CLAYTOR. It is perfectly plain that it can be done using their approach at a very much smaller price than was estimated by the FRA a few years ago, who were basing it on the way we have electrified between New York and Washington in the 1930s. Newer electrification systems are lighter and cheaper; the Europeans know how to do it, and I think that their estimate has been about $150 million for the electrification alone. Now, there would be another, probably, $100 million or more for signal work that has to be done, too, which they did not include in their estimate. But, even putting the two together, it is significantly less than the inflated cost that would have been estimated five or six years ago. And if I had the money, I would ask them to come over here and give me a turnkey, fixed price estimate to do the job, and they would be prepared to do it.

I cannot very well ask them to go to that trouble when I have not got the money; if I had the money, we would do it. That is an essential part of getting the high-speed operation from Boston into New York. Asea Brown Bavari, the big Swedish-German firm, has developed tilt trains and is now selling them to the Swedish railroads. Gil Carmichael and I rode on them just a few months ago. It seemed to both of us to offer the greatest possibility for really good high-speed operation there.

My own view is that the same cars operated south of New York could probably cut the time from two hours and 35 minutes down to maybe two hours and 10 or 15 minutes, which does not sound like much of a difference but makes a lot of difference marketwise, when you are talking about competition with the airplanes.

So, this is an area that we would like to go into. And we are planning to try and get a train of those cars over here on a test basis. We cannot do that until probably around summer of next year because they are just not available. They are being constructed and tested right now. And to be operated in this country, they would have to be modified to meet American standards, which are different from the European standards. And I agree that they should be so modified before they go into regular service, but we could get them as they are for test purposes. And that is what we want to do, and we have that very much in mind.

Mr. CONTE. Is that $150 million that you mentioned for electrification, is that what it costs to electrify north of New Haven?

Mr. CLAYTOR. That is right; that was Asea Brown Bavari's estimate. We have not evaluated that all the way down, but that is their current estimate of what it would cost to electrify New Haven into Boston; yes.

Mr. CONTE. How long would that take?

Mr. CLAYTOR. I think that if we let the contract today, they would probably complete it in 18 months to two years.

BOSTON-NEW YORK SERVICE IMPROVEMENTS

Mr. CONTE. Another subject, now. You previously indicated a need for about $90 million worth of noncommuter rail improvement north of New York in order to significantly reduce the New York-Boston travel time. What work needs to be done here, and what travel time improvements does that give you?

Mr. CLAYTOR. The $90 million in improvements include significant bridge and signalization work on portions of the northeast corridor over which only Amtrak or freight railroads operate. In addition, what we have to do is to eliminate bad traffic congestion in three places where Amtrak and commuter railroads operate on the same rail: Outside of New York City and Long Island yards, at New Rochelle, where we join with Metro North, and in New Haven, where we have got to be able to get these trains through New Haven without slowing down for 10 miles of yard area. These should be funded by the states and UMTA. Then, we have several other bridges in other places that have permanent slow orders on them that ought to be removed if you are going to do high-speed. So, those are the kinds of things that are included; it would all be part of one package.

Now, there is another point that has not been talked about as much that we have to keep in mind. And I do not want my money to go into this one; I want this to come from the highway sources. There are 17 grade crossings between New Haven and Boston. We would have to get rid of those for a high-speed operation; you do not want to run 125 miles an hour across a grade crossing. And I think that that ought to come from highway money. But that is an additional factor; we have not got a figure on that because every grade crossing elimination is a different problem, and they can vary from as little as several hundred thousand dollars to as much as $10 million, depending on the nature of the road and the terrain. But that would have to be done too.

Mr. CONTE. I agree with you; that should come out of the highway fund.

Mr. CLAYTOR. Yes.

Mr. CONTE. And it is going to make it a lot easier for those people who travel.

Mr. CLAYTOR. Yes, sir, and a lot safer.

Mr. CONTE. And a lot safer. We just had one guy hit a train in the Berkshires a few days ago.

Mr. CLAYTOR. Yes, sir.

COMPARISON OF TURBO POWER AND ELECTRIFICATION

Mr. CONTE. How much faster would it be, and would it be cheaper not to electrify, but go ahead with turbo engines?

Mr. CLAYTOR. You have got to go into the tunnels in New York City with electricity; you cannot take anything else in there. And to have a dual-purpose engine that can also have the capability of accelerating fast is a problem that we really have not got a solution to. The diesel does not accelerate, even if it could run 125 miles an hour; it does not have the power to accelerate that the electric engine does.

Now, when you are running on an existing railroad, you are going to be running around these curves. The secret is, while we can run around the curve faster with this tilt technology, you still cannot run around it as fast as you can on the straightaway. And when you hit the straightaway, you want to be able to pull that throttle back and shove it right up to maybe as much as 140 or 150 miles an hour. But, unless you have got the power to accelerate fast, it is no good because by the time you accelerate, you have to slow down for the next curve. That is the problem with the diesel, what we have today.

If we had electrification today, I think that we could probably get half an hour out of that schedule between New Haven and Boston, just on acceleration. But we have stretches that we can run right now with our existing equipment 110 miles an hour. But at each end is maybe a fifty-mile or a sixty-mile-an-hour curve. You come around the curve and then you pull the throttle back; by the time you get up to 110 miles an hour, you have got to slow down for the curve at the other end. You have such a slow acceleration.

Mr. CONTE. Can you predict now what the savings would be for electric——

Mr. CLAYTOR. In time?

Mr. CONTE [continuing]. Over dual-power, like turbo? The time saving?

Mr. CLAYTOR. We think that we can get a Boston to New York train on a nonstop basis in under three hours with the electrification and tilt train. That is roughly like we are doing today with the metroliner from Washington to New York, with the existing railroad and with these relatively minor changes in track that we have talked about.

Mr. CONTE. You would be very competitive at that point.

Mr. Claytor. That is right; we would. That is right. That is the objective. The objective south of New York is roughly two hours and 15 minutes; the objective north of New York is under three hours, we call it two hours and 55 minutes or something like that.

Mr. Conte. Mr. Chairman, I have many more questions; I will submit them for the record. You can answer them as if I asked them.

Mr. Claytor. Yes, sir; thank you.

Mr. Conte. Good to see you again, old friend.

[The questions submitted for the record by Mr. Conte follow:]

Questions Submitted for the Record by Mr. Conte

Question. The Coalition of Northeastern Governors has estimated that the incremental travel time improvement of full electrification versus the use of turbo locomotives, with everything else being equal, is only four minutes for high speed New York-Boston service. Do you agree with this estimate? Please explain.

Answer. The answer will vary based on the assumptions used in calculating trip times from New York to Boston. The four minute estimate, for the advantage of an electric locomotive versus the use of turbos, is probably correct given a certain set of assumptions.

However, a change in those assumptions, such as operation at high speeds, increases the advantages of electric over turbo. Train Performance Center (TPC) runs for both RTL and AEM7 powered trains were generated at speeds that produced 8 inches of cant deficiency on curves and maximum speeds as high as 150 MPH. These assumptions produced an estimate of 7.5 minutes advantage for an electrically-powered consist.

The advantage of an electric locomotive will increase as maximum speeds increase and as the number of dips in speed increase. These dips can be either stops or speed restrictions. The AEM7 can regain speed faster than the RTL when trains are of equal length. In addition, because the Northwest Corridor is electrified south of New Haven, there will be significant equipment utilization and marketing benefits from a Northeast Corridor that is electrified from Washington to Boston. We should further note that the operating costs for turbo-powered locomotives are significantly higher than for the AEM7's.

Question. I understand that you have had some problems with the electrical system on the Harrisburg line. What is the current situation? Are you going to be able to restore electric power? How are you maintaining service in the meantime?

Answer. There have been no problems with the electric traction power system other than a very infrequent outage due to an insulator or broken hanger. There are problems with trees contacting transmission lines on the abandoned Conrail line. This is only one leg of our transmission grid.

This has not interrupted service for longer than a couple of hours.

Service has been maintained by normal power.

Question. Do your estimates include such related items as the cost of raising bridges and lowering tracks to accommodate the catenary as well as the cost of attaching the system to the local power grid?

Answer. Yes, the cost presented by Amtrak included cost for providing the proper clearance for catenary and power feeds by local power companies.

Question. I understand that Amtrak recently solicited proposals for the development of four new diesel-electric locomotives. What is the status of the solicitation, and how long it will take to develop a new locomotive through the prototype stage?

Answer. Development of a new dual powered A.C. diesel-electric locomotive will take from three-to-four years for the prototype to complete testing. Our request for quotations is in the hands of the suppliers and we are waiting for their response. We are anticipating that these responses will be received by early May 1990.

Question. How much will it cost to develop a new diesel-electric locomotive through the prototype stage?

Answer. The cost of developing four prototype units would be in the area of $20,000,000.

Question. Once developed, how long would it take to have five or ten of them in revenue service?

Answer. It would take approximately two years from the order date to take delivery of the diesel-electric locomotives.

Question. Do you have any ideas of what the cost would be to operate a dual powered A.C. diesel-electric locomotive?

Answer. With a modern, fuel-efficient engine, we are anticipating fuel savings of approximately 15 percent. Unitl testing of the prototypes are complete, we do not have a good estimate of operating and maintenance costs. However, we do expect the cost of operating and maintaining these engines will be substantially less than the turbo power.

Question. If dual propulsion locomotives were used on the Northeast Corridor, where else could they be used if, someday, full electrification on the corridor were to occur?

Answer. Dual-propulsion locomotives can also be used in Empire service from Albany to New York and we believe that as the major station areas become more sensitive to environmental issues, they would also be used on third-rail capability into major stations. Dual-powered locomotives could also be used for service between Atlantic City and New York.

Question. Both Amtrak and the FRA participated in the testing of tilt-technology cars on the Northeast Corridor. What were your conclusions? Do you have any plans to add tilt-technology cars to the Amtrak fleet? Were Swedish tilt-technology cars compared in the test?

Answer. Our conclusion was that tilt-technology cars would be required to reduce trip time between Boston and New York City. At the present time, there is no rolling stock available to accomplish the improved trip time. Further evaluation of existing technology is required. The Swedish tilt technology was not available at the time of the test and was consequently not considered. We expect to test the Swedish technology on the Northeast Corridor next spring or summer.

Question. Mr. Claytor, the Montrealer has now been running for eight months. How is it doing?

Answer. In the first six months of renewed operation of the Montrealer, ridership is running 10 percent ahead of the last similar period of operation (in 1986) before the service was interrupted. This is very encouraging both to see such a strong rebound immediately after that long interruption, and that this result was achieved even though the train is still not serving its important markets at Hartford and Springfield. Revenues on the route are running nearly 30 percent ahead of the similar period in 1986.

Question. I understand that Montrealer ridership is exceeding expectations. Is that correct?

Answer. The Montrealer is about up to the level of ridership it had in 1982, before track conditions had deteriorated. Since we had expected ridership to take some time to reach its previous level, it is slightly exceeding our expectations. During the first six months of operation it has had 62,000 passengers.

Question. What is the threshold time which needs to be reached in order to generate sufficient revenue to cover operating costs for high speed New York-Boston service? Please provide the threshold time, and supporting data, for both full electrification and for use of dual propulsion locomotives.

Answer. Based on our experience in the Washington-New York market and our analysis of the New York-Boston market, we believe that a travel time under three hours is critical to attracting the important business travel market. This is particularly for purposes of alleviating congestion at Logan Airport. Travel time in excess of this threshold will attract additional riders and revenue, but may not alleviate congestion to a significant extent.

We would note that preliminary analysis of high speed service has revealed services options for both full electrification and dual propulsion locomotives which cover their operating costs. In each case, the projected level of demand not only reflects a reduction in trip time but also incorporates concurrent improvements in the level of service and projected growth in overall market demand.

Question. The Coalition of Northeastern Governors has estimated that the incremental travel time improvement of full electrification versus the use of turbo locomotives, with everything else being equal, is only four minutes for high speed New York-Boston service. Do you agree with this estimate? Please explain.

Answer. The answer will vary based on the assumptions used in calculating trip times from New York to Boston. The four minute estimate, for the advantage of an electric locomotive versus the use of turbos, is probably correct given a certain set of assumptions.

However, a change in those assumptions, such as operation at high speeds, increases the advantages of electric over turbo. Tour Performance Center (TPC) runs for both RTL and AEM7 powered trains were generated at speeds that produced 8 inches of cant deficiency on curves and maximum speeds as high as 150 MPH.

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Question. Without electrification, what is the minimum travel time for the high-speed service between Boston and New York that can be reached if all necessary track and commuter line improvements are made, and tilt-technology is used?

Answer. The non-stop RTL-powered (turbo) run produced a 3 hour 16 minute run time. This does not include the potential reductions in trip time from improvements at Shell, Harold, Stamford, or New Haven. These reductions have been estimated to total 15 minutes. Therefore, a 3 hour trip time is possible without electrification. The scheduled trip time for this non-stop run would include an additional five percent recovery, producing a 3 hour 9 minute run time.

Question. How much of the necessary track work is included in the $250 million estimate for electrifying the line?

Answer. ABB Traction has estimated that the cost of electrifying the line between New Haven and Boston—installation of the catenary and electrical systems—would be approximately $150 million ($ 1989). We believe that it would be prudent to inflate this estimate to $200 to account for inflation and contingencies. Other costs associated with electrification—primarily the cost of electrification-compatible signaling—already is included in the $270 million estimate for non-commuter infrastructure improvements. In the event that funds are borrowed to help pay the cost of electrifying the line, additional interest costs must be added to the $200 million estimate.

Mr. LEHMAN. Thank you, Mr. Conte. Mr. DeLay.

DEDICATED ONE-CENT TAX POLICY

Mr. DELAY. Thank you, Mr. Chairman. Mr. Claytor, I also want to add my congratulations to what you have been able to accomplish; it is just amazing. But along those same lines, I have a quick question that came to my mind, after listening to the questioning from my colleague, Mr. Wolf. On this one-cent gas tax situation, I trust you with the one-cent gas tax, but I am not sure about another Chairman that may follow you. And the reason I say that is that your business philosophy is much like my business philosophy; you make the tough decisions when you have to make them, and you look at costs as well as revenues in order to run your business. But if you had a dedicated one-cent gas tax going to Amtrak, would that not relieve the pressure that you are under to make those kinds of decisions?

Mr. CLAYTOR. It would not relieve me, and it would not relieve my team. Certainly this subcommittee would have to still appropriate our funding. And that raises an important issue. I think that it is critically important that if we are going to go ahead with the program that we have laid out, that the team that I have has got to be in charge of doing that. I have got people behind me in Amtrak that are capable of handling my job as well or better than I am, and are dedicated to it. If we brought somebody in from the outside, I think that I would lose most of that team because every one of these guys are top guys, and can get a better-paying job from the travel industry, airlines and other railroads.

And I think that it is critically important that that team stay in place. In the past, the Amtrak president has always come from the outside. There was a good reason for that; it was a young company, it was an untried company; we had a lot of people that came over from another railroad, and there was not really anybody that you could put your finger on.

Today, it is different. Today, we have the kind of team that I am proud to have. When I was at Southern Railway, I thought that I had the best team in the country, and I think our results showed it. But I say frankly that the team that I have got at Amtrak is better than what I had at Southern today. And it is important for this committee to understand that the future of Amtrak is going to depend on that team staying in place. And I am not going to be here forever; I am getting on to where I ought to be leaving. But I want to make it very clear, very clear that this is a vital consideration.

Mr. DELAY. I think that you are making my case for me, though. When we pass a one-cent gas tax, that takes no consideration for the people part. That goes on for as long as it will go, until somebody either repeals it or we put a sunset provision in it or in some way stop it from happening. That has no human factor to it. The human factor is what you have put together. And it raises another question: At Southern Railways, did the team leave when you did?

Mr. CLAYTOR. No, we filled it from the inside. And right now, they are doing a better job than when I was there. [Laughter.]

No, every single one came from there. We had a team, and the team has moved right on up, since I left. Yes, sir. That is a critical thing.

Mr. DELAY. Well, you have put together an excellent team, and obviously, you alone cannot accomplish all that has been accomplished in Amtrak. It takes a strong leader, but it takes the team to carry it out, and you are to be commended. We will debate this gas tax at another time. There are a lot of questions to it, including the one that Mr. Wolf brought up, that if we could take care of the labor protection provisions, you would not need a one-cent; all you need is the three-quarters of a cent.

Mr. CLAYTOR. No, I am sorry, that is not true. Not true, because the labor protection at the present time is not costing us any money at all.

AMTRAK COST SAVINGS

Mr. DELAY. But you said that if we reformed the labor protection provisions, you could save $216 million.

Mr. CLAYTOR. No, no, no; it would not save that. It is not the labor protection provision that we have got to reform; it is our railroad retirement tax. No, repealing the labor protection provisions would not make one penny of difference in our day-to-day costs. What it would do would be to say that if somebody ordered us to cut 50 percent of our business out, we could do it without going bust. I would think that that would be a disaster too. But that is the difference. There is no cost attached to the labor protection provisions on a day-to-day operating costs. As I mentioned, I can cut my labor force with additional efficiency of operation. The only thing that this thing freezes is that I cannot reduce the number of trains I am running. I cannot take a train completely off without incurring some labor protection costs.

Mr. DELAY. Well, where did the $216 million come from?

Mr. CLAYTOR. When you refer to our justification, you will see that excess railroad retirement taxes that we pay back to the government for the retirement of freight railroad people is $135 million; railroad unemployment insurance taxes are $17 million; excess claims due to FELA is another $17 million. The money that we pay to maintain the track for the commuter agencies is $47 million. You add all that up, it is $216 million in savings that could come out. The big one of course is excess railroad retirement taxes. That has nothing to do with the labor protection provision.

SMOKING SURVEY RESULTS

Mr. DELAY. Going to another area, the smoking announcement that you made; there are a couple of questions that I want to ask you. I remember a 1988 survey of nonsmoking passengers that indicated 88 percent were satisfied with the smoking policies that were in effect at that time. Have there been any further surveys, including surveys of specific categories of passengers or services such as club car service categories?

Mr. CLAYTOR. I will ask Bill Norman, who is in charge of that budget.

Mr. NORMAN. Yes, sir, Mr. DeLay. We have had ongoing surveys, and the numbers that you have indicated are essentially correct, and that is roughly about 88 percent of our passengers did indicate that they were satisfied with our efforts to try to maintain a balance between smokers and nonsmokers.

SMOKING POLICIES

Mr. DELAY. To clarify your recent announcement, do you intend to go any further than you have gone? I too have an interest in smoking policies. I opposed Mr. Durbin on his policies about airlines because I felt like you were stepping on the rights of smokers, and they could be accommodated if the airlines chose to do that. In this case, even more than the airlines, you can accommodate them because you have cars that can segregate smokers. Do you intend to eliminate the smoking car policy at any time?

Mr. NORMAN. Mr. DeLay, what we have tried to do in this policy and policies that we have had in the past is to find the best balance that we can between our passengers who smoke and those who do not smoke. You will note that over the past three to four years, given changes in demographics, that we have had a number of adjustments to our smoking policy. On the one hand, sir, we have attempted to try to find a way in which a non-smoking passenger can ride our trains without having to go through a smoking area.

On the other hand, 23 percent of our passengers are smokers, roughly. And we have tried to designate a space on the train where they can still smoke without smokers having to go through. Two points I might add in addition to that. A fundamental difference is that on an Amtrak train, we have a passenger who may get on a train and travel two nights and three days. And within that particular timeframe, we do not have the option of saying that an individual can go that long without smoking. So we have tried to find the balance. we will continue to find the balance; we will continue to survey and try to meet the needs of all of our passengers, sir.

Mr. DeLay. I appreciate the approach that you are taking. Have you developed marketing plans to traveling people the idea that if you are a smoker, take the train. [Laughter.]

Mr. Norman. Yes, sir. One of the things that you do most basically in marketing is try to satisfy the needs of your customers.

Mr. DeLay. There have been claims by some of my colleagues in this whole smoking debate that even by segregating a car for smokers, you are endangering the health of those smokers' children who would have to ride with them on that car. Do you consider that? If you do, is there ventilation systems or something on that smoking car that would at least diminish that problem?

Mr. Norman. Mr. DeLay, all of our cars have a ventilation system, and in addition to that, we are trying a large quantity of devices to minimize smoke in the air on our trains. We have smoke-eating devices, smoke absorption devices; we are continuing to test them and to try to find ways to make the air as pure as we can, relatively. But overall, in all of our cars, we have a ventilation system for which we have circulations within the car.

AMERICANS WITH DISABILITIES ACT

Mr. DeLay. Great. And I appreciate the time, Mr. Chairman. I just want to ask a couple more. We have a bill that is on a fast track itself, coming through Congress. It is called the Americans With Disabilities Act. And it really needs to be fixed, and we hope that some concerns will be taken into account when we approach the passage of this bill. I know that the Energy and Commerce Committee and the Public Works Committee have addressed this problem on trains. Yet, you have got to realize that the Senate did not. And when they go to conference, there is going to be that debate about having all cars accessible on a train versus, I think, if my information is right, what the House has done, when you make one car accessible on a train.

You do not need to do it here, but submit it for the record; do you have figures on what the ADA bill, as it passed the Senate, would cost Amtrak versus what the House has passed?

Mr. Gillespie. Yes, we do. We can provide you with that. But one clarification: The Dingell bill, the House bill, does treat this issue in a much more rational approach than the Senate did. That moved quite quickly through the Senate, as you know, and is still going through the House. And it is more than one car. The principle that they are looking at for the end of the first five-year period is that 50 percent of the number of single-level coaches that we have must have that many handicap accessible spaces, rather than requiring every single car on the train to have an accessible space. And at the end of a ten-year period, it is an accessible space for every coach car that you have on the train. We can live with that; it is going to have some cost implications, and we would be happy to supply the data.

Mr. DeLay. I would like to know what those are. Well, that will take care of my question, Mr. Chairman. Thank you very much.

REVENUE ENHANCEMENTS

Mr. **Lehman**. Thank you, Mr. DeLay. I hope Amtrak will be followed by a little money next year. Sometimes, I think about being irresponsible and just accepting the recommendation of the President. You know, we have dire supplementals and we have regular supplementals, but I think that this would lead to the most urgent dire supplemental that we ever had. [Laughter.]

Mr. Claytor, over the past couple of years, revenue enhancements have not met expectations. Is this situation improving?

Mr. **Claytor**. I think that it has met expectations. When we look at revenue enhancement, it includes revenues generated from safe harbor proceeds, real estate development revenues, corporate development activities, such as fiber optics, right-of-way leases and so forth. Now, several years ago, the biggest contributor to this was the safe harbor proceeds. The safe harbor proceeds generally diminish over the years, as these things work their way out. So, that has gone down and was expected to go down.

But looking at both gross and net revenues, which we have got, for 1990, the estimate is $38 million gross, $28 million net. For 1991, the projection is $47 million gross, $37 million net. This is about the same as both figures were in 1987, when the safe harbor proceeds first came in at their maximum levels.

We expect gross revenues to go to two billion dollars total budget and revenue-enhancement to go to $55 million by 1994, and we think that we will have some $175.5 million added to Amtrak's capital program out of this over the next five years. So, it is a helpful thing. It is not major from the standpoint of a total budget, but it is helpful, and it is going to increase. Particularly, for the long pull, the real estate development is the greatest potential we have. And again, it is going to be very slow coming. And we are talking about the year 2000 and beyond. I think that is going to be the biggest single factor that we have.

MAIL/EXPRESS SERVICE REVENUES

Mr. **Lehman**. Do you have any business with private express overnight people such as Emory, Data Express?

Mr. **Claytor**. Well, that would not be in this category. That would come in the category of mail and express revenues, which are transportation revenues. Yes, we are.

Mr. **Lehman**. Do you have any income from that, yet?

Mr. **Norman**. Yes, sir, we do.

Mr. **Lehman**. For the record, would you give us that information?

Mr. **Norman**. We would be happy to, sir.

Mr. **Lehman**. From the U.S. Postal Service as well as some of these private companies on the overnight package delivery.

Mr. **Norman**. Yes, sir; yes, sir.

[The information follows:]

Amtrak's mail and express volume has grown from essentially zero to over $37 million in FY 1989. The vast majority of this revenue, $33 million, is from the carriage of mail and similar material for the U.S. Postal Service. Mail and package express are both handled in the same type of equipment (baggage cars and material handling cars). The U.S. Postal Service is the first priority customer for this space because only one customer is involved, and business is contracted for multiple year periods. Over the past five years, mail volume has increased by over 150 percent, from $13.1 million in 1984 to $33.1 million in 1989. This growth has been facilitated by a significant increase in equipment capacity. In 1986 Amtrak received 74 new material handling cars.

The future for this business seems as bright as the past. Amtrak's relationship with the U.S. Postal Service is excellent. Based on our estimate of future potential for mail service, Amtrak ordered and is taking delivery of 70 additional material handling cars in 1989. We will continue to work with the Postal Service to develop this business to its maximum potential. The true potential of the business will be limited only by the capacity constraints of our trains.

FRA VIEWS OF REVENUE POLICIES

Mr. LEHMAN. Mr. Carmichael, what is the FRA's opinion of Amtrak's fare structure and other revenue-making activities? What advice can you give us and Amtrak to increase their revenue?

Mr. CARMICHAEL. Mr. Chairman, part of my life has been a merchant in marketing. I accept the yield management approach to setting these fares, and Amtrak is doing an exceptional job in doing that. I am worried a little bit about the yield management because if you drive your fares too high, you begin to create an impression to the public that you are getting expensive. The question was asked earlier about how they did their fares in Europe. TGV, as I understand it, is priced about 20 percent lower than the airline fares as a national policy, to try to get people to use the electric travel rather than the petroleum travel. I am frankly just a little bit concerned about pushing Amtrak's yield management too far, and that is a personal thing.

On the real estate development, all over Europe and all over the United States, you can see the train stations coming back with great dynamics. Union Station is a significant example of how the people will use a train's commuter and transit facilities if it does have things other than just buying tickets. Union Station is a beautiful example of how that real estate development can work. I think that Amtrak is capitalizing on that in just about every way. FRA is also working to help Amtrak get its other services, like GSA supporting it in using passenger service. And also, the Post Office; we have met with the Post Office several times to try to push traffic services toward Amtrak. It is kind of foolish to subsidize one way, and for the Post Office to spend the money another way. And so, we are using that.

I think the activities are very aggressive, are very good. We have just a little bit of caution and worry about using yield management too much. They have only got approximately 1200 passenger vehicles for the whole United States. And they are apparently using them to the maximum, and using yield management to the maximum, as indicated by the $1.2 billion. So, I am just a little worried as the Federal Railroad Administrator.

Mr. LEHMAN. What you are reciting is what they are already doing. Do you have a suggestion for them to do what they are not already doing?

Mr. CARMICHAEL. As you were talking about the Swedish train awhile ago, the high-speed tilt train. The biggest revenue from the train side of it is to get faster trains and better trains in these corridors, and I think that you can take an awful lot away from the competitors.

REVENUE ENHANCEMENT ESTIMATES

Mr. **Lehman**.

Last year, you estimated $42.9 million in revenue enhancements in fiscal year 1991. Mr. Claytor, what is your estimate today?

[The information follows:]

Revenue enhancement includes revenues generated from Safe Harbor proceeds, Real Estate Development and Corporate Development acitivites such as fiber optics, right of way leases, etc. We are currently estimating $47.4 in gross revenues for all Revenue Enhancement activities for FY91. The increase over our earlier estimate is due to anticipated increases in Safe Harbor proceeds as well as increased revenue contributions from our Real Estate Development activities.

REVENUE ENHANCEMENT PROJECTS

Mr. **Lehman**. Mr. Claytor, for the record, please provide a breakdown of actual and projected revenues under revenue enhancement projects for fiscal years 1989 through 1992, similar to the table on page 413 of last year's hearing record.

[The information follows:]

The following is a breakout of actual and projected revenues for revenue enhancement projects for fical year 1989 through 1992.

(Dollars in millions)

	Fiscal year			
	1989 actual	1990 project	1991 project	1992 project
Corporate Development	$18.3	$19.7	$20.5	$22.0
Real Estate Development	1.3	4.3	14.3	12.4
Safe Harbor	14.1	14.6	12.6	11.8
Total	$33.7	$38.6	$47.4	$46.2

YIELD MANAGEMENT FARE SYSTEM

Mr. **Lehman**. Mr. Claytor, Amtrak's most recent annual report speaks of a "yield management program." This program reportedly earned eight to ten million dollars in revenues between January and August 1989. What is this program, and what are your revenue estimates for fiscal year 1991?

Mr. **Claytor**. I will ask Mr. Norman to handle that, please.

Mr. **Norman**. Thank you. Mr. Chairman, our yield management is set up to segment a market according to price sensitivities, and it enables us to set a variety of fares. We are able to project the demand by train and by each segment on the train. We use historical booking data to get this information, and we adjust it to our current booking trends. And then, from that, we are able to adjust the inventory of seats at various fare levels according to the demand and according to the capacity.

Basically, sir, the whole purpose of yield management is to improve the overall yield of the train by getting certain passengers to pay higher fares when it is deemed appropriate and necessary. It also allows us to improve the load factor on our trains by being able to match our seat capacity to the demand that we have from our passengers, and we get the most economically advantageous results.

It also does one additional thing: From historical patterns, it helps us to measure no-show factors to allow prudent over-booking during capacity-constrained periods, so that all the possible demand is accommodated and our loads are there. We have now been working on this for a long time, but mostly in a manual mode. We are now going into an automatic mode, so the things that we are talking about now that we have been able to manipulate manually, we will be able to do automatically. As an example, in the past year, we estimate that approximately $12 million additionally came just as a result of these kinds of things, and we expect it to continue in the future.

Mr. **Lehman**. Any adverse comments from the passengers whose fares are going up or who may be overbooked?

Mr. **Norman**. No, sir. In fact, we have made arrangements for that, and we are doing it properly and we are working very hard, and as a result, we believe that we may not have been as aggressive as we could. We feel that we have made a failure if there is one person showing up without a seat, but we are now making provisions for that. We have now had this on a test for about seven months, sir, and essentially, we have not had any difficulty.

Mr. **Lehman**. Do you have standby passengers?

Mr. **Norman**. Only on the unreserved trains, sir. (Laughter).

Mr. **Lehman**. How much do you expect to save in 1991 on this system?

Mr. **Norman**. We estimate approximately $12 to $15 million, sir.

BAGGAGE CAR PURCHASE FINANCING

Mr. **Lehman**. Last year, Mr. Claytor, you advised us that you had identified $8.9 million in new U.S. Postal Service business that you could bid on after purchasing 10 additional baggage cars. Have you been able to get the financing for these cars?

Mr. **Claytor**. Yes, sir.

Mr. **Lehman**. And can you put them on those fast trains?

Mr. **Claytor**. Yes, sir. The new baggage cars, which, for some reason, the modern generation calls "MHCs", material handling cars—to me, they are baggage cars; I do not care what you put in them, they are baggage cars—anyway, we are getting them. We have already received 41 new cars out of a 70-car order; and the balance will be delivered by the end of April this year. So, that is 70 additional cars.

In addition, we have also contracted for the complete overhaul of seven former VIA baggage cars that were made available to us. Of these 77 cars, 34 represent net additions to the fleet to provide for expansion of the mail and express business.

Mr. **Lehman**. And is that in that $8.9 million?

Mr. **Claytor**. Yes, I think that it is. We are just putting them in service right now, but the entire group will be here at the end of next month.

FEDERAL TRAVEL CONTRACTS

Mr. LEHMAN. GSA awarded Amtrak six city pairs for mandated Federal employee travel, but they awarded the Washington-to-New-York and Washington-to-Newark pairs to airlines, even though Amtrak's bid was lower. Did GSA review that decision last year? What were the results?

Mr. CLAYTOR. I think that that was a bad mistake by GSA, and I am hopeful that we can get help from this committee and from others, including the FRA, in having that reversed next year, reversing the decision to give New York-Washington and Newark-Washington to the airlines, when the public has already picked us as the primary carrier. We carry more people between New York and Washington than either of the two shuttles or any airline. And yet, we offered a cheaper price and a good service, and GSA still gave it to the airline. I think that that is outrageous.

Actually, Secretary Skinner, when he testified before this committee, said, "There is no question in my mind that it is less expensive and more sure to take the train from Washington to New York than to go any other way." But, somehow or the other, we have got to get the GSA to get the word. Now, I think that they will pay more attention to what the Appropriations Committee says than almost anybody else, and I think that we need to give them the word on this.

Mr. LEHMAN. And are there other opportunities also for Government employees to travel Amtrak?

Mr. CLAYTOR. Of 36 city pair segments that we bid on, we were awarded 11. The two that bothered me were the New York and Newark to Washington ones. So, we have gotten a significant number of awards from GSA, but we ought to get those other two big ones.

Mr. LEHMAN. Mr. Carmichael, it would seem that the Federal Government would get double savings if Amtrak were to be awarded city pairs in those cases in which they are the low bidder: (1) the individual Federal agency's travel costs would be reduced; and (2) Amtrak's Federal grant subsidy could be reduced. Would you agree with this analysis?

[The information follows:]

Yes, that's true. I have met with Amtrak senior management to discuss problems Amtrak encountered in last year's bid to GSA for several specific city pair transportation services for Federal buisness travel. As a result of the meeting, my staff met with GSA management to discuss these issues. GSA made several suggestions that we have passed on to Amtrak. We will be working with Amtrak to incorporate these changes for the next bid solicitation this fall and we are hopeful that business can be expanded in FY 1991.

Mr. LEHMAN. Mr. Carmichael, what actions has FRA/DOT taken to encourage GSA to consider Amtrak more fully? Would you agree that such a role would be consistent with Secretary Skinner's commitment to assist Amtrak in finding additional sources of income?

Mr. CARMICHAEL. I agree wholeheartedly, Mr. Chairman, and we met in November of 1989 with GSA, and we are pushing hard. They have told us that they would give us some explanations of why they did what they did, and that they would restudy their approach.

ACTUAL REVENUES VERSUS ESTIMATES

Mr. **LEHMAN**. Mr. Claytor, for the past two years, Amtrak's revenue projections submitted with the budget request have been lower than actual revenues for those years. In other words, you have been underestimating your revenues, which is a refreshing change to the cost overruns we usually see. For fiscal year 1991, you project total revenues of $1.5 billion, a 9 percent increase. Given past experience, is this also going to be underestimated?

Mr. **CLAYTOR**. Mr. Chairman, all estimates of this sort have to be educated guesses on the basis of past experience.

Mr. **LEHMAN**. But is that in good faith?

Mr. **CLAYTOR**. I think that the revenue projections have only been low the past two years; in previous years, we did not reach the projected levels. And, I think that this year, we are running slightly below our projection. I am hopeful that we will be on it. We try to do it right, but we will be sometimes up and sometimes down, and there has obviously been no trend on this.

Mr. **LEHMAN**. Mr. Carmichael.

Mr. **CARMICHAEL**. We found their estimates usually very conservative.

Mr. **LEHMAN**. I think that that there is a vote on now. How about recessing now, and coming back at 1:30?

Mr. **CLAYTOR**. Yes, sir.

Mr. **LEHMAN**. Mr. Coughlin?

Mr. **COUGHLIN**. Fine.

[Whereupon, a short recess was taken.]

AMTRAK'S PASS-THROUGH SUBSIDIES

Mr. **LEHMAN**. We will convene the meeting on Amtrak.

Mr. Claytor, according to your justification, 29 percent of Amtrak's grant request ($199 million out of $684 million) is needed to pay for activities which have nothing to do with Amtrak's operations—they are subsidies to the freight railroads and state commuter railroads. Would you explain why Amtrak is required to pay those costs?

[The information follows:]

As detailed in Amtrak's Legislative Report and Grant Justification, Amtrak is required to pay substantial costs each year that either are paid back to the federal government in the form of *excess* Railroad Retirement and Railroad Unemployment Insurance payments, or in reality represent subsidies to commuter railroads operating in the Northeast Corridor.

Railroad retirement and railroad unemployment taxes are federally-mandated payments which in Amtrak's case each year greatly exceed the value of benefits drawn by Amtrak's own employees. The tax rates are set by law and do not reflect the experience of the railroad (although the RUIA system will become experience based in 1993). As a result, a railroad such as Amtrak with a relatively young and stable workforce must pay far more into the benefit systems than it takes out: this year, Amtrak will pay $153 million in excess of what its employees and retirees receive from these programs. The federal government counts Amtrak's excess payments as revenue and uses it elsewhere to pay federal liabilities—in this case, federal Railroad Retirement and Railroad Unemployment Insurance benefits to other railroad employees.

As owners of the Northeast Corridor, Amtrak must absorb the base costs of maintaining and operating the rail line. The commuter railraods pay only incremental costs, even though they often are the predominant users. If all users were required to pay their own share of the fully allocated costs of operating and maintaining the corridor, the commuter railroads would have to pay $43 million in additional costs now paid by Amtrak. We believe that this sum should not be counted as a cost of intercity service; UMTA should pay these commuter railroad costs directly to Amtrak.

Mr. **Lehman**. Mr. Carmichael, who would pay those costs if Amtrak service were discontinued?

[The information follows:]

If Amtrak service were discontinued and Amtrak were to go out of business, freight and commuter railroads would have to pick up all retirement costs now paid by Amtrak, including the costs across the nation for Amtrak retirees. The same is true for payments to the Railroad Unemployment Fund. Commuter authorities and freight railroads operating on the Northeast Corridor (NEC) would be responsible for NEC operating and maintenance costs referred to by Mr. Claytor, as well as any capital costs required to maintain their services on the NEC.

RAILROAD RETIREMENT FUND

Mr. **Lehman**. The largest component of those costs, $135 million, is for payments to the Railroad Retirement Fund. Mr. Carmichael, how does this fund work? In your view, is it fair for Amtrak in essence to use Federal funds to subsidize the retirement fund?

Mr. **Carmichael**. In using my kind of layman terms on it, we have Social Security as the first base, and then we have a special program above that as the Tier II. Under the Retirement Act, Amtrak and its employees pay Tier II and supplemental taxes that will total an estimated $179 million in fiscal 1991.

As I understand it it they're actual costs were what they paid, it would be $44 million. As a result, Amtrak's employees and the Amtrak company are paying about $135 million more than their share.

Mr. **Lehman**. They are in turn subsidizing the employees of the non-passenger railroads.

Mr. **Carmichael**. Yes, sir, that's right.

Mr. **Lehman**. Mr. Claytor, you have no problem with that?

Mr. **Claytor**. Yes, sir. Well, you see, we pay—that $135 million is money that we are paying back to the federal government, which is then used for the retirement benefits of other railroads' retirees.

Mr. **Lehman**. "We" means eventually the American taxpayer.

Mr. **Claytor**. That's right. I think that should be paid by the other railroads, frankly.

Mr. **Carmichael**. The other railroads at this point.

Mr. **Claytor**. Frankly, a good part of that which could be said to be very unfair is the requirement that somebody has to pay for the orphans and step-children that is retirees of railroads that are no longer in existence. Amtrak had nothing to do with any of those, but some of the other railroads didn't either. This is being temporarily taken care of largely by transfer to the fund of income taxes paid by the Tier II retirees on receiving railroad retirement.

That takes care of the unfair part, it seems to me. And the freight railroads ought to pay for their own retirees, apart from that one exception. And that means that $135 million ought not to be paid by us, it ought to be paid by the fellows who have the retirees. And it seems to me to be grossly unfair to do it this way.

Mr. **Carmichael**. And at the present point, Mr. Chairman, we're subsidizing it and then turning around and paying it.

Mr. **Claytor**. Yes.

Mr. **Lehman**. Because that would definitely take authorizing legislation, is that right?

Mr. **Claytor**. I think it would take some sort of substantive legislation, although I think one could take it out of our budget by having it paid directly or through FRA into the fund instead of it being paid through us. That would not load the thing upon the other railroads, but it would certainly keep us from appearing to have a lot of expenses we really don't have.

Mr. **Lehman**. What you're suggesting would require authorizing legislation, is that not true?

Mr. **Claytor**. I think it might require authorizing legislation, I'm not an expert.

Mr. **Lehman**. For the record, you could expand on that.

[The information follows:]

It is our belief that authorizing legislation would not necessarily be required. By statute, 26 U.S.C. 3221, Tier 2 of the Railroad Retirement tax is imposed on every "employer," which means any rail carrier. The Appropriations Committee could appropriate the amount of excess payments to some other agency, such as the Federal Railroad Administration, and direct it to pay those amounts into the Railroad Retirement trust account on behalf of Amtrak. Amtrak would provide the Committee with its best estimate of the excess payments (for example, $135 million in FY 1991). If this projected amount were low or high, adjustments could be made in future fiscal year appropriations.

We do believe that the taxing committees would have to approve any change that made Amtrak specifically exempt from liability for the excess payments. However, we see no reason why some other agency cannot make those payments on Amtrak's behalf.

RAILROAD RETIREMENT COMMISSION

Mr. **Lehman**. Mr. Carmichael, based upon employment trends in the industry, would you expect Amtrak's excess requirements for payments to the railroad retirement and railroad unemployment funds to increase during the 1990s, and how will those changes affect Amtrak's ability to "wean itself" off the Federal subsidy?

Mr. **Carmichael**. Mr. Chairman, I'm sorry, could you repeat the question?

Mr. **Lehman**. We have over $200 million that Amtrak is paying out that has nothing to do with the operations.

Mr. **Carmichael**. Yes, sir. And our approach in the National Transportation Plan was to try to eliminate these things that aren't directly related to Amtrak passenger business. Again, in asking for a self-sufficiency plan, Year 2000 plan that Mr. Claytor has been talking about, we would hope he has these in his recommendation.

COMMISSION ON RAILROAD RETIREMENT REFORM

Mr. **Lehman**. Last year, Mr. Claytor, you advised us that Amtrak's proposal to set up an alternate retirement system was being deferred pending the results of the Congressional railroad retirement commission. What has that commission decided regarding Amtrak's retirement obligations?

[The information follows:]

It is our understanding that the Commission on Railroad Retirement Reform is currently deliberating its recommendations which are due in October, 1990. The commuter railroads have endorsed Amtrak's position that the existing Railroad Retirement tax system unfairly requires the taxpayer supported passenger railroads to subsidize the investor-owned freight railroads. We cannot predict the Board's response.

PILOT PROJECT ON WORKERS' COMPENSATION VERSUS FELA

Mr. **LEHMAN**. Mr. Claytor, we have talked often in the past about the financial effects of the Federal Employers Liability Act (FELA). This act was passed in 1908—and you know what it does. The rail industry includes Amtrak which is one of the few remaining industries which is not subject to workman's compensation. Last year, Amtrak proposed a pilot project to rid itself of FELA requirements. Where is that pilot project now?

Mr. **CLAYTOR**. We stand on that proposal. We think it's an excellent way to test this out in practice and find out whether or not it has any of the bad effects that people claim it does. I don't think it will. But the way to do this is to take Amtrak, which is a relatively small part of the industry, and put us under the state workers' compensation acts for a three-year period, have the GAO evaluate our test, and report to the Congress. And unless we can persuade you to extend it, that would end it. We'd go back to the old system.

Mr. **LEHMAN**. Of course, the trial lawyers are in favor of this.

Mr. **CLAYTOR**. The biggest opposition is from the trial lawyers because they recognize—and, in fact, most of the opposition recognizes—that the chances are that when this is done it's going to turn out to be such a good thing it will be permanent. And so they look upon this as something we ought not to take a chance on.

Now, I think I ought to mention that the FELA proposal has received a lot of endorsements. The Federal courts study committee has approved it. Secretary Skinner's transportation policy, as Mr. Carmichael said, has approved it. The Railway Progress Institute has approved it. The National Industrial Transportation League has approved it.

Mr. **LEHMAN**. And $17 million is what you say you're going to save?

Mr. **CLAYTOR**. That's the current figure, but it gets bigger every year because this is a rapidly growing cost figure. I think it will be of the order of $40 to $50 million within the next several years. It was $17 million—actually, it's a past figure. It was $17 million at the time the GAO studied it a year or two ago.

Mr. **LEHMAN**. If you did no-fault, wouldn't you have to hire more lawyers on your own?

Mr. **CLAYTOR**. If I did no-fault, I'd have to have less lawyers.

Mr. **LEHMAN**. Less lawyers?

Mr. **CLAYTOR**. Sure. Because the no-fault—we don't have any litigation over that. The applicant may get a lawyer to help him with the local workers' compensation commission. But in a high percentage of the cases, no lawyer is involved in this because you don't need a lawyer. We wouldn't need a lawyer at all.

Mr. **LEHMAN**. Actually the in-house savings would be more than $17 million, as you say.

Mr. **CLAYTOR**. I think the savings would be more. A significant part of the savings is the administrative costs.

Mr. **LEHMAN**. That's why you need a pilot program.

Mr. **CLAYTOR**. That's right. That's why I want a pilot program to try it out.

Mr. **Lehman**. All right, then. We'll recess for a few minutes while we go vote.

[Whereupon, the subcommittee recessed.]

Mr. **Coughlin**. I believe you have a comment to make on FELA.

Mr. **Claytor**. Yes, I do. I would like to suggest that the committee might like to ask DOT to explore the potential cost saving and safety trade-offs if we tried the Amtrak approach of a trial balloon.

Now, safety trade-off is important. I haven't said much to this committee, but in other testimony, my strongest point has been that this will improve safety and will make our safety program able to be much more effective, because the key to safety is when there's an accident, we need to have everybody involved worried about it and trying to find out how to keep it from happening again. That means the employee, it means the foreman, it means everybody else.

With FELA, when something occurs in the shop, if the fault is the fault of the worker, and that's proved in court, he doesn't cover anything. If it's very much the fault of management, the corporation may get stuck for even more money.

So immediately after an accident, the local supervision wants to do everything it can to show that it wasn't their fault and everything they did was okay. The object of the union immediately is to show that it was all management's fault and nobody else had anything else to do with it.

The result, instead of a team working together to fix this so it doesn't happen again, is that everybody has got an axe to grind and it's practically impossible to have a decent, fair, impartial investigation of the accident. Now, when you eliminate this problem so that fault is not factor, and then everybody can work together to find the cause of the accident. I think that's important. I'd like to have the DOT examine that.

See, the union takes the position that if it costs the company a lot of money in FELA awards or judgments, the railroad will improve safety. I think that is nonsense. The real safety factor is everybody has got to work together. I'd like to see DOT do some studies of these problems, cost savings and safety factors and I think it could be very helpful.

FRA'S VIEWS ON FELA

Mr. **Coughlin**. Your point is very well taken, Mr. Claytor.

Mr. Carmichael, what is your opinion of FELA?

[The information follows:]

FRA strongly supports repeal of the FELA legislation and replacement with state workers' compensation programs. We have maintained a firm position on this for some time now. We would not oppose Amtrak's three year experiment as a first step. Not only does FELA place an additional cost burden on Amtrak and other railroads but FELA carries with it all the wrong incentives. Instead of encouraging cooperative steps to make the railroad safer, FELA discourages efforts by management and labor to share information and learn from accidents because it is fault based and thus somewhat adversarial. Also, instead of encouraging a return to productive employment as soon as the worker is fit, the worker has an incentive to stay away from the job until a verdict is reached.

DETERMINATION OF COMPENSATION AWARDS

Mr. **Coughlin**. Mr. Claytor, FELA supporters argue that a fault-based system allows for financial compensation to be based upon the merits of individual cases, and not by a pre-arranged determination of how much a particular injury is "worth". How would you respond to that argument, and Mr. Carmichael, would you offer your comments also?

[The information follows:]

I have been at a loss to understand how, under the merits of a FELA case, a man can lose both legs in an accident and receive no compensation for his injury and permanent disability.

What an injury should be worth is guaranteed compensation, rapid rehabilitation and a commitment to identify the cause, not fault, of the accident so it can be prevented in the future.

[The following information is Mr. Carmichael's response:]

We agree with Mr. Claytor's response. In addition, support for this conclusion is certainly found in the fact that fault has been eliminated as a consideration in compensating the vast majority of American workers who are covered by state no-fault workers' compensation.

COMPARISON OF FELA AND STATE SYSTEMS

Mr. **Coughlin**. For the record, Mr. Claytor, would you give us a discussion and some data on FELA cases involving Amtrak employees, and would you compare the average compensation award and number of awardees with corresponding estimates if Amtrak had been under state workers compensation laws?

[The information follows:]

Mr. Chairman, I have three principal concerns with our FELA experience.

First, under our system, unfairness rather than equity is the rule. In one year, for example, a supervisor who was shot in the knee by a disgruntled employee was awarded $3.7 million in damages plus an $8,000 monthly payment from Amtrak for twenty years plus 60 percent of his salary until he turns 65 under Amtrak's Long-term Disability and Railroad Retirement Disability. Another employee who was permanently disabled that year was denied any recovery. Any system that denies help to an injured worker for an injury is wrong and unfair.

My second concern is one of costs that are out of control. In 1982, Amtrak's average claims payment was $3,321 and an average lawsuit payment was $29,451. In 1988, the average claims payment had jumped to $29,451 and the average lawsuit payment to $78,493. Over that period Amtrak's total FELA costs have tripled from $17.4 million to $54 million and now average over $148,000 per day. Amtrak will never reach its goal of operating self-sufficiency without relief from this type of out-of-control burden.

AMTRAK'S FELA PAYMENTS AND EXPENSES

[Calendar year]

Year	Claims and lawsuits closed	Average claim payment	Average lawsuit payment	Total payment to plaintiffs and their attorneys (millions)	Legal defense expenses (millions)	Medical payments (millions)	Administrative expenses (millions)	Total FELA costs (millions)
1982	1,771	$3,321	$29,451	$12.9	$1.3	$1.7	$1.5	$17.4
1983	1,473	3,717	40,183	16.2	1.9	2.5	1.5	22.1
1984	1,393	5,320	58,079	24.5	1.9	2.7	1.6	30.7
1985	1,483	6,088	69,458	25.2	1.6	3.3	1.8	31.9
1986	1,674	7,826	57,472	29.6	2.2	3.5	2.1	37.4
1987	1,615	6,366	54,285	25.6	3.1	3.1	2.2	34.0

AMTRAK'S FELA PAYMENTS AND EXPENSES—Continued

[Calendar year]

Year	Claims and lawsuits closed	Average claim payment	Average lawsuit payment	Total payment to plaintiffs and their attorneys (millions)	Legal defense expenses (millions)	Medical payments (millions)	Administrative expenses (millions)	Total FELA costs (millions)
1988	1,645	8,711	78,493	42.8	4.5	4.3	2.2	53.8

Finally, my main opposition to FELA lies in the safety area. The fault-based approval of FELA encourages workers and managers alike to concentrate their efforts on finger-pointing and self-interest rather than identifying the problem and preventing its reoccurrence. Last year Amtrak was honored as the most improved railroad in safety. My goal is to be the safest railroad but FELA's backward emphasis on finding fault stands in my way.

No one can say for sure what our costs would be under a state workers' compensation system. The GAO estimated that our costs would drop between 11 percent and 73 percent depending upon which state figures are used. A critical point is that much of that savings comes at the expense not of the worker, but of a small group of specialized FELA trial lawyers. Amtrak would expect to save approximately seventeen million dollars annually, based on the mean estimates of the GAO report for several states.

Mr. Chairman, this issue is a difficult one that has been further complicated by the organized opposition of a small segment of the Bar. The issue has been debated largely on emotional grounds. That is why I have suggested a three-year test of our proposal as a means to give the Congress good empirical date with which to make an informed decision. If our test period experience is unconvincing either in its fairness, its financial soundness, or in its contribution to improved safety, today's status quo will resume.

Mr. COUGHLIN. Mr. Carmichael, would you also answer that question for the record from FRA's perspective?

[The information follows:]

We agree with Mr. Claytor's response and are familiar with the General Accounting Office study which showed that it would be more economical for Amtrak to rely on State workers' compensation rather than FELA. Not only does FELA place an additional cost burden on Amtrak and other railroads but FELA carries with it all the wrong incentives. FELA does not encourage cooperative steps to make the railroad safer but discourages efforts by management and labor to share information and learn from accidents because it is fault based and thus adversarial. Also, instead of encouraging a return to productive employment as soon as the worker is fit, the worker has an incentive to stay away from the job until a verdict is reached.

CAPITAL FUNDING REQUEST

Mr. COUGHLIN. Amtrak's fiscal year 1991 grant request includes $188 million for capital equipment, up from $83.6 million last year. Mr. Claytor, would you explain the major components of your capital request?

Mr. CLAYTOR. Yes, sir. Our total capital requirements come to $500 million. Now, of that, we are asking for only $188 million from the federal government. Actually, the other two figures are outside financing and some $37 million that we will generate on our own for capital. So we are talking about what we plan to do with the entire $500 million.

About $410 million of that is for rolling stock. In other words, the great bulk of it is for cars, new passenger cars and locomotives and some other equipment. We have about $14 million on maintenance facilities. That's improving the shops that we have which are still obsolete in many respects, and we're trying to improve that every year. We have $23 million on right-of-way improvements. The information and communications systems, $13 million. Station improvements all around the country, not very much, $13 million. And then about $26 million on other things, the bulk of which is Amtrak's share of a joint project with MTA in New York for a new control center and funding for a Los Angeles reservation sales office that has to be moved. That basically is the program. It's spelled out in considerable detail on page 19 of our request and justification.

ROLLING STOCK—AVERAGE AGE

Mr. COUGHLIN. Mr. Claytor, what is the average age of your rolling stock today, and how does that compare to 1985? What would the average age be in 1995 if your capital improvement program were not funded?

[The information follows:]

The average age of locomotives was 7 in 1985, 12 in 1990, and would be 17 in 1995 without the delivery of new equipment. The average age of passenger cars was 14.2 in 1985, 18.0 in 1990, and would be 23.0 in 1995 without the delivery of new equipment.

FRA'S VIEWS ON AMTRAK'S CAPITAL NEEDS

Mr. COUGHLIN. Mr. Carmichael, do you consider Amtrak's capital budget requirements for fiscal year 1991 to be sound and reasonable?

Mr. CARMICHAEL. We do not disagree with Amtrak as to its need for capital. The only thing that we question is—what would be its capital needs if it had a Year 2000 self-sufficiency program? How would these capital needs fit into that long-range plan, just in context with the plan we've been asking for?

Mr. COUGHLIN. Can you endorse their need for $188 million?

Mr. CARMICHAEL. We don't disagree with their need for a lot of capital.

Mr. COUGHLIN. Mr. Carmichael, have you reviewed Amtrak's long-range plans for capital improvement, and do you find them also to be sound and reasonable?

[The information follows:]

In the past, we have reviewed Amtrak's long range plans and found them to be quite reasonable and to have a sound basis. Over the next several months, we will be working closely with Amtrak on a comprehensive long range plan to guide the railroad toward self-sufficiency.

PUBLIC AND PRIVATE FINANCING

Mr. COUGHLIN. Mr. Claytor, what is the private funding match for the equipment you are procuring in fiscal year 1991, and what leverage does Amtrak obtain from the Federal funds?

Mr. CLAYTOR. Amtrak has borrowed about $158 million from the private sector so far for equipment, using various financing techniques and I think we are certain that we can do more of this. What we need is the support from the Federal Government in order to show that the government is participating with us in this. And that's our need.

Mr. COUGHLIN. What kind of a match do you get private-public?

Mr. CLAYTOR. I have said that I thought I would always be able to match 50 percent, that is to say, if I get $50 million appropriation, I can raise $50 million. I think we are hoping to do a little better than that. Better than the 50-50 match. But I feel confident that under the present circumstances I can do at least a 50-50 match.

HORIZON CAR PURCHASE

Mr. COUGHLIN. Mr. Claytor, delivery of Amtrak's 104 new Horizon cars was to be completed in March 1990. How many have been delivered to date, and when will the last one be delivered?

[The information follows:]

Forty-five cars were delivered in 1989. Fifty-nine were delivered in 1990, completing the total order for 104 cars.—Coaches, 86; food service, 18. Assigned to Oakland, coaches, 20; food service, 6. Assigned to Chicago, coaches, 66; food services, 12.

As a result of the crossing accident at Stockton, California one car was scrapped and three cars are in wreck status awaiting disposition.

VIEWLINER AND SUPERLINER CARS

Mr. COUGHLIN. Last year, Mr. Claytor, Amtrak requested—and Congress provided—$50 million for an initial procurement of new Viewliner long-distance cars. Now you tell us that you have reevaluated your requirements and decided to procure Superliner cars instead. Why did you decide not to pursue the Viewliner acquisition, and doesn't this call into question your process for determining your capital equipment needs?

Mr. CLAYTOR. I think the principal change is that we have discovered that it is feasible to buy Superliners. We were under the impression that there was no one in a position to supply Superliners and that the cost of trying to get a new manufacturer in a position where he could make them was so great that we probably couldn't afford to do it.

That's turned out not to be the case, because it seems that Bombardier has purchased the rights to Superliners from the Pullman Company and the tooling and everything else, and they are very much interested in negotiating with us for a Superline purchase. That being the case, we would prefer, assuming we can get a good price—everything depends on that whenever you buy anything—it would be advantageous for us to buy Superliners first rather than Viewliners.

Now, the principal reason for that is that the Superliner is the most efficient long-distance car that we have, capable of carrying more passengers per car than either the Heritage Fleet or the Viewliner. The higher density Superliners can carry more passengers with fewer cars which means the same number of passengers on a shorter train, a cheaper train, or where you have a big demand, many more passengers on a train of the same length. They are the most luxurious and have the highest passenger appeal of any cars we have.

The Viewliner—we've got to have those, too. But the priority would be for the Superliner, because for one thing, we are still testing the Viewliner. We still have a few bugs to get out of it, as you do whenever there's a new system started. The Superliner, on the other hand, has been fully tested, has been modified a number of times until it meets all of our requirements and is ready to go exactly as it is.

Now, we would expect to buy Viewliners in the very near future as well, but the first thing and highest priority would be Superliners now that we know we can get them.

Mr. COUGHLIN. Mr. Carmichael, have you reviewed Amtrak's actual long-range planning process for capital improvements? In your view, is that process adequate?

Mr. CARMICHAEL. Mr. Chairman, there isn't a long-range planning process. That's what we keep asking about. I agree with Mr. Claytor about the cars that he needs now versus the Viewliner. I know enough about his capital needs and his passenger and sleeping car needs that I agree he's right in his approach now.

The only thing, if he's got a long-range process plan where this is all in context, I think the White House and the Secretary are anxious to see it.

SUPERLINER CAR ACQUISITION STRATEGY

Mr. COUGHLIN. Mr. Claytor, would you explain the acquisition strategy for the Superliner car procurement?

[The information follows:]

Amtrak has identified the eventual need for 175 additional Superliner cars. The new Superliner cars would be used to increase capacity on several frequently sold-out long-distance trains, address existing equipment shortfalls, replace aging Heritage Fleet equipment on eastern overnight trains capable of handling high-level equipment, and allow for western service expansion where economically justified.

The Superliner acquisition plan would consist of three phases. The first phase of 75 cars would allow capacity expansion on several long-distance trains that are frequently sold-out. They would also be used to re-equip Auto Train, replacing the train's aging Heritage Fleet equipment with Superliners.

The second phase, an additional 61 cars, would convert the two additional trains capable of handling Superliner equipment, the Washington, D.C.—Chicago Capitol Limited and the Chicago—New Orleans City of New Orleans, from Heritage Fleet to Superliner. At the end of this phase, we will have replaced 90 Heritage Fleet cars that have been in service for over 40 years, but which could be used to provide equipment for use on other low-level trains pending their replacement by Viewliners. In addition, 30 Amfleet II cars will be released for alternate service, reducing our total Viewliner requirements.

The final phase of the Superliner acquisition plan would require an additional 39 cars and would allow selective western route and service expansion.

VIEWLINER CAR REQUIREMENTS

Mr. COUGHLIN. Mr. Claytor, last year you told us that Amtrak had a requirement for 250 new Viewliner cars. This year, your grant request states a need for 307 of these cars. Why has your Viewliner requirement gone up, especially in light of your decision not to procure those cars in fiscal year 1990?

Mr. CLAYTOR. Because last year, the 250 Viewliners discussed were premised on replacing about 297 aging Heritage Fleet cars that have been in service for forty years or more. We picked the oldest Heritage cars and said we'd replace those first, and that would have taken 250 Viewliners.

However, we now believe that 307 Viewliners are needed to replace the Heritage cars on all Eastern Overnight trains, to increase the Cardinal to daily service and allow for selected service expansion. It now appears, too, that we will have to replace all Heritage sleepers to take care of toilet waste retention modifications, because I think the Heritage sleeper is not capable of being modified.

So that means that we will have to step that up as we move into this low-level exchange to replace all of the Heritage sleepers.

FIVE-YEAR CAPITAL PLANS

Mr. COUGHLIN. Mr. Claytor, what are Amtrak's projections for capital needs over the next five years, in total, and what portion will you request to be provided by Federal subsidy?

Mr. CLAYTOR. For new equipment, $1.33 billion total. Amtrak self-generated funds will provide $125 million; private financing will generate $575 million; and we must look to the federal government for $630 million. Percent of Federal funds would be 47 percent of the new equipment. For other equipment, Federal funds would be a higher percentage, 79 percent.

Mr. COUGHLIN. Mr. Claytor, a couple of years ago, Amtrak hoped that its non-passenger business revenues would be sufficient to cover capital needs by the mid-1990's. Is this still the case?

[The information follows:]

As previously stated, we believe that by the end, not the middle, of the 1990's our revenue enhancement program can generate revenues on the order of $100 million per year. This forecast is based on realization of several potentially lucrative real estate developments of Amtrak property.

Although I have previously expressed the hope that these revenues would cover our capital needs by the end of 1990's, it is now apparent that renewal and modest expansion of our equipment fleet will require significant additional amounts to supplement self generated funds.

GRAMM-RUDMAN REDUCTIONS FOR 1990

Mr. COUGHLIN, Mr. Claytor, will Amtrak be able to manage the $7.4 million Gramm-Rudman reduction in your fiscal year 1990 operating account without reprogramming funds from your capital account?

[The information follows:]

Partial sequestration resulted in a $7.4 million reduction in Amtrak funding, nearly all of which was taken from the operating grant. For FY 1990, federal operating assistance after partial sequestration is only $521.1 million, significantly less than we requested. It is still far too early in the fiscal year to know whether we will be able to meet our operating requirements with the $520 million provided or will need to seek to reprogram some capital funds. Amtrak will monitor the situation closely and keep the Subcommittee updated as the year goes by.

NECIP BUDGET REQUEST

Mr. COUGHLIN. Turning to the Northeast Corridor Improvement Program, your grant requests an appropriation of $58.8 million for the Northeast Corridor Improvement Program in fiscal year 1991. What are the main elements of that request, Mr. Claytor?

Mr. CLAYTOR. The main elements are the centralized electrification traffic control system extension to New York City, which is being partially—more than half—paid for through the UMTA grants to the commuter agencies. Our portion of that is still substantial. We also want to undertake electric traction upgrades to improve the electrification system south of New Rochelle to ensure reliability and efficiency. We want to put high level platforms on the Route 128 station just outside of Boston, which will save us a lot of station time on our Boston trains.

The details on this are given on pages 23 through 25 of the grant request and justification in great detail, and I think those are the main items.

Mr. COUGHLIN. Mr. Carmichael, have you reviewed that request, and do you find it to be sound and reasonable?

Mr. CARMICHAEL. Yes, we have reviewed it. Again, out of context, we oppose this 1991 funding. We would take a completely different look at it if it was in the context of a long-range plan.

AMTRAK SALARIES & BENEFITS

Mr. COUGHLIN. Many of Amtrak's operations are carried out by railroad company employees, Mr. Claytor. Are there wide variations in salaries and benefits among the different railroad companies? For example, does a locomotive engineer involved in Amtrak service in California get paid more than a similar locomotive engineer in the Northeast Corridor?

Mr. CLAYTOR. No. Our salaries under union agreement are pretty well uniform for the same job everywhere.

NECIP SAFETY BENEFITS

Mr. COUGHLIN. Mr. Carmichael, how will Amtrak's NECIP request improve safety along the northeast corridor, and would that offer benefits to non-Amtrak rail users as well?

[The information follows:]

Amtrak's NECIP request, will improve safety for all users of the Corridor. Intercity high speed, commuter and freight train operations will be safer and more reliable as a result of CETC and improvements to communications and signal systems. Passengers will find boarding and alighting trains at Route 128 to be safer and faster because of the high level platforms. Other improvements, especially track work, will make rail operations more reliable, allow higher speeds, lower maintenance costs and provide a smoother ride.

MONTREALER SERVICE

Mr. COUGHLIN. Amtrak last year restored its Montrealer service after a two-year suspension. Mr. Claytor, how much of the original ridership have you regained thus far, and do you consider that a successful rate?

Mr. CLAYTOR. Bill, do you want to answer that?

Mr. NORMAN. Yes, sir, Mr. Coughlin. The Montrealer now is currently up to the level of ridership that it had in 1982, before the track conditions had deteriorated. As you are aware, we stopped the Montrealer service in April of 1987 and resumed it on July 17, 1989, last year.

Because the service had been suspended for two years, we thought that there would be a period in which the train would have to grow and that the revenues would have to grow accordingly. However, looking at the statistics for the first six months, it is slightly exceeding our expectation and specifically during the first six months of operations it had 62,000 passengers which exceeded the projections that we had and it looks as if it's doing comparatively very well.

As you are aware, we are routing the train over the Central Vermont Railroads line north of New London, through the New London area, and we will have to make a final determination on the final routing at some later time.

ATLANTIC CITY SERVICE

Mr. COUGHLIN. The Gambler's Express to Atlantic City started with about 1000 people a day riding the trains, less than 30 percent of what the service needs to break even. Amtrak cut the number of cars on some Atlantic City trains from six to four and some trains carried fewer passengers than would fill a 48-seat motor coach. Revenues on the line were expected to cover 80 percent of short-term avoidable costs in one year of operation. What is the situation today?

Mr. NORMAN. Mr. Coughlin, it did get off to a very slow start, but ridership has continued to grow on a seasonally adjusted basis since the service has begun. We are very encouraged, because during the summer it was operating at an annual rate of about 250,000 passengers. During this past fall, it increased to about 280,000 passengers on an annual basis. During the winter, it passed the 300,000 mark up to about 310,000 annually, and currently it is operating well above that level.

It is on a very good trend line. The service needs about 480,000 passengers to meet the 80 percent revenue-to-cost statutory requirement and about 625,000 to break even. We are now on a trend line to get there, but we have also made some additional adjustments in the service that are going to take place on April 1 which we think will help us accelerate the movement along that line.

Mr. COUGHLIN. Will you cover your——

Mr. NORMAN. We will cover it. We're confident that we can get there, we don't think that it's going to happen at the end of this fiscal year.

ATLANTIC CITY SERVICE IMPROVEMENTS

Mr. COUGHLIN. It's been said that two reasons for lack of riders are: (1) Amtrak officials are focusing on the short haul, Philadelphia-Atlantic City market rather than long-distance travel and (2) the Atlantic City station is separated from the boardwalk by a mile-long stretch past a rescue mission and a shuttered housing project. What can be done to make this service more attractive?

Mr. NORMAN. Mr. Coughlin, we would agree that our experience—and again look at six months' worth of data—indicates that the longer distances are doing much better than the shorter distances. And I think that the reason for that is, from a marketing perspective, comparatively obvious: people have patterns which they've been using over and over again with their cars, and in order to get them out of their cars there has to be something more distinctive.

So as an example, on April 1, we're now going to emphasize the longer market. The Washington to Atlantic City market clearly has done better than the shorter distance market. So we're going to extend that daily service to Richmond, Virginia which will pick up additional stations along the way from Richmond. We are also going to have better connections with Harrisburg, and so the longer markets will work better.

In terms of what's happening in Atlantic City itself, it is true that transportation has been very, very difficult and we had a meeting not very long ago with almost all the elements of the business community in Atlantic City to come up with a way to resolve the public transportation issue from our station to the boardwalk. And we are confident that we're going to be able to work those things out.

Mr. Coughlin. Harrah's Marina Hotel and Casino broke ranks with its rivals and announced incentives for rail passengers similar to those provided to bus passengers. Has this helped?

Mr. Norman. Yes, sir, it has helped. In fact, if I may add parenthetically, when we had that particular meeting, some of the others had noted that 70 percent of the people getting off the train by count were going to Harrah's. We now have gotten very close to agreements with other hotels in the area.

NEW JERSEY TRANSIT AGREEMENT

Mr. Coughlin. Mr. Claytor, last year Amtrak negotiated a financial agreement with New Jersey Transit over this line. What were the significant aspects of that agreement, and why was it a good deal for Amtrak?

[The information follows:]

Amtrak and New Jersey Transit recently amended the 1985 agreement to change the financial agreements that govern operation over the Atlantic City line. New Jersey Transit no longer is financially responsible for ensuring that Amtrak achieves the financial criteria established by statute for its intercity rail passenger operations over the line. Public Law 101-164, the FY 1990 Transportation and Related Agencies Appropriations Act, provides that Amtrak may operate service to Atlantic City only if revenues from the service cover 80 percent of the short-term avoidable loss during the second year of operation and 100 percent thereafter. Under the original agreement, if Amtrak failed to meet the criteria, New Jersey Transit was required to make up the difference, assume intercity operations itself, discontinue both intercity and commuter operations, or reimburse Amtrak for the amortized value of Amtrak's investment in the line.

In return for this change, Amtrak is no longer required to share with New Jersey Transit in the allocation of revenues generated in excess of Amtrak's cost. In addition, New Jersey Transit no longer can exercise a degree of control over Amtrak's intercity operations.

The new agreement is very beneficial to both Amtrak and New Jersey Transit. It basically allows each party to control its own service free of interference from or financial obligation to the other. In Amtrak's case, the new agreement will permit Amtrak more flexibility in scheduling and sizing its trains as well as the ability to retain all profits generated by its intercity operations in the future.

AMTRAK-NEW JERSEY TRANSIT ACCIDENT

Mr. Lehman. Thank you, Mr. Coughlin. On September 17, 1989, an Amtrak accident with a New Jersey Transit train in Berlin, New Jersey, which killed a mother and daughter led Amtrak to reduce speeds along the Atlantic City route. Amtrak was expected to review those speed reductions in April of 1990.

Mr. Claytor, what was the cause of this accident, and do you intend to continue the speed reductions?

Mr. Claytor. Mr. Chairman, that accident occurred when the driver drove around downed gates. It's similar to accidents that happen almost every week somewhere on the Amtrak system. If people will insist on driving around downed gates, there are going to be fatal accidents.

Now, we feel that speed is not a factor here. It is purely a factor of people paying attention to the gates. And New Jersey Transit decided to reduce speeds in certain areas, and we followed that for a temporary period, until April 1. I don't think that has any safety effect whatever. In my opinion, we should resume speed rapidly as soon thereafter as possible.

NECIP GRADE CROSSINGS

Mr. LEHMAN. You mentioned there are 17 grade crossings in the Northeast Corridor——

Mr. CLAYTOR. From New Haven to Boston.

Mr. LEHMAN. And you said you couldn't run a high speed rail.

Mr. CLAYTOR. That's right—79 miles an hour is the standard speed we operate throughout the United States across grade crossings. But this is quite different. The main reason for saying I don't want to run 125 miles an hour across the grade crossing is not to protect the motorist—he's going to be killed just as quickly at 60 miles or 50 miles an hour. It's because at that speed, you're likely to derail the train.

Mr. LEHMAN. That's what I'm trying to figure.

Mr. CLAYTOR. Yes, sir.

Mr. LEHMAN. Mr. Claytor, should the speed be reduced along additional portions of that route?

[The information follows:]

Amtrak agreed to reduce speed on 4 sections of track until April 1990. At that time, speed restrictions agreed to by NJT will expire and we will evaluate the impact of the slower speeds. These sections are:

Milepost:	*Speed miles per hour*
1.2-2.1 (Pensauken)	45
15.5-16.7 (Berlin)	60
30.2-31.0 (Hammonton)	60
41.4-42.3 (Egg Harbor)	60

We do not believe there is a safety need to reduce speed elsewhere on this line. To do so would impact trip time and reduce ridership and public desire to utilize this mode of transportation without added safety.

"CAPITOL LIMITED" SERVICE

Mr. LEHMAN. In November 1989, Amtrak began offering deluxe service on its Washington-to-Chicago "Capitol Limited" route. According to your annual report, this new service "may well provide the most luxurious rail accommodations in the world". Mr. Claytor, why did you institute such a service, and how profitable is it?

[The information follows:]

American European Express proposed a non-competitive luxury rail passenger service and sought transportation services from Amtrak. An agreement was negotiated in which AEE reimburses Amtrak for all incremental costs associated with providing them haulage; and transportation fees established as an incentive to Amtrak to provide the service.

The services generated have more than offset operating costs. In addition, as stated maintenance, switching and other incremental costs are totally reimbursable.

Mr. LEHMAN. Mr. Claytor, do you intend to expand such deluxe services?

[The information follows:]

Amtrak has expanded the AEE Agreement to include twice weekly service to New York, under the same terms and conditions as set forth in the original agreement for provision of services between Chicago and Washington.

CALIFORNIA AND NORTH CAROLINA SERVICE EXPANSIONS

Mr. **Lehman**. Mr. Claytor, your justification speaks of ongoing discussions concerning expanded service in the Raleigh-Charlotte and San Diego-Santa Barbara city pairs. When do you expect expanded service in those areas, and what is your estimate of the profitability of those lines?

[The information follows:]

"The Carolinian" is scheduled to begin service on May 12, 1990 between New York and Charlotte, North Carolina via Rocky Mount. Amtrak's initial federal operating subsidy is estimated at $597,000 annually and includes a North Carolina 403(b) payment of $1,433,000.

California has proposed that one existing San Diegan service be extended to Santa Barbara as a second 403(b) train between Los Angeles and Santa Barbara. Amtrak's federal subsidy needs initially would slightly increase due to operation of the service. No agreement has yet been reached to operate the service, but Amtrak and California are continuing to discuss the new service. The principal problem is locomotive availability.

A ninth (Weekend only) round-trip is proposed between Los Angeles and San Diego as a basic system train, which is contingent upon using the equipment from the second Santa Barbara train. It is projected that Amtrak's federal subsidy needs would decrease by $136,000 if the train is operated.

WASHINGTON, DC-VIRGINIA SERVICE

Mr. **Lehman**. Mr. Claytor, would you explain your Washington-to-Newport News, Virginia service, including its estimated profitability?

[The information follows:]

We evaluated the feasibility of one additional daily round trip between Washington and Newport News for the summer peak period. Currently, one daily train operates to Newport News. Where possible, the new service would operate as a through train to/from New York, Boston or Springfield on the existing trains. This new service is projected to product breakeven financial results.

We are not pursuing a new Washington-Newport News service at this time as we do not have the additional equipment needed. We will reexamine this proposal when additional equipment is available.

Mr. **Lehman**. Mr. Carmichael, have you reviewed Amtrak's process for evaluating the revenue potential for service expansions, and do you find that process adequate?

Mr. **Carmichael**. We have no major problems with the process they're using, Mr. Chairman.

JACKSONVILLE-NEW ORLEANS DEMONSTRATION PROJECT

Mr. **Lehman**. Mr. Claytor, have you reviewed the proposal for a Jacksonville-New Orleans demonstration project, and if so, what are your comments?

[The information follows:]

The Jacksonville-New Orleans route would form an important link between Amtrak's Florida services and its Western system trains. The Louisiana-Mississippi-Alabama Rapid-Rail Transit Commission has requested that we evaluate this possible service addition, and the state of Florida has expressed interest in the train's initiation as well. We intend to begin a financial evaluation of this route shortly.

At present we do not have the equipment to start up this service. In addition, we believe some state financial support would be needed, at least initially, to defray the train's operating losses.

CHICAGO/MIDWEST/FLORIDA ROUTE

Mr. **Lehman**. Likewise, Mr. Claytor, has Amtrak reviewed the feasibility of a new Amtrak route linking Chicago and the Midwest to Florida, and if so, what were your conclusions?

[The information follows:]

The Chicago-Atlanta-Florida route is a major travel market without direct Amtrak service. We will shortly begin evaluating route alternatives through Kentucky, Tennessee, Alabama or Georgia for such a service and initiating a financial analysis of such routes' potential.

Approixmately $200 million would be needed to purchase locomotives and passenger cars for this service. Initially, operation of this service would require additional federal operating support as well as financial support from the state affected.

Amtrak's report of Chicago-Atlanta-Florida service is due to Congress on December 1, 1990.

WORST PERFORMING LONG DISTANCE ROUTES

Mr. **Lehman**. Under existing services, Mr. Claytor, what are Amtrak's poorest performing long-distance routes, and what can be done to improve them?

Mr. **Claytor**. Three worst, poorest performing long-distance routes are the Cardinal, Chicago-New York operating tri-weekly, 6.8 cents per passenger mile loss; the New Orleans-Los Angeles Sunset Limited, a very long distance train, also operating three times a week, 3.9 cents loss per passenger mile; and the Chicago-Seattle Pioneer, 3.6 cents lost per passenger mile.

Now, the required criterion for these trains is 12.4 cents lost per passenger mile. So each one of these three worst trains are way less than half as costly as the criterion.

Now, we're working on all three of them. We want to get all of these trains to zero. That's what we're after.

WORST PERFORMING SHORT DISTANCE ROUTES

Mr. **Lehman**. And the short distances?

Mr. **Claytor**. The short distance trains are worse. They always are. The three worst short distance trains are the Calumet, our Sunset—403(d)—commuter train from Chicago, which ought not to be running. That has a loss of 17.5 cents per passenger mile, which is slightly in excess of the criteria. The other two are Chicago-Indianapolis Hoosier State, which is well within the criteria, 11.3 cents; and the Chicago-Detroit-Toledo service, 8.24 cents.

The Indianapolis train suffers from bad tracks which are being fixed and from a rather slow schedule, which we're going to be able to improve somewhat. The Chicago-Detroit-Toledo service is hampered by poor station location in Detroit and severe airfare competition. That's one of the places the airlines are cutting each other's throats and that's affecting our traffic, too.

I think we are going to work on both of those. They both are satisfactory. The one train that is really unsatisfactory is the Calumet commuter train and we are not going to do anything about that at the moment. We're moving our main trains between Pittsburgh and Chicago to a different route and we'll wait until that's done.

CARDINAL SERVICE IN WEST VIRGINIA

Mr. **Lehman**. Did you mention the Cardinal?

Mr. **Claytor**. The Cardinal was in the long haul service.

Mr. **Lehman**. But I thought that was three times a week and I heard you say you were going to try to do that daily.

Mr. **Claytor**. We are. That's one of the things we want to help it with. But we're not going to be able to do it daily until we get the new equipment, and that's probably two years away.

Mr. **Lehman**. But if you're losing so much three times a week, wouldn't you lose twice as much if you ran it daily?

Mr. **Claytor**. No, because a great many people don't ride the train, particularly that train, which serves White Sulfur Springs—nearly everybody wants to go to White Sulfur Springs on the train because getting there by other means of transportation is kind of tough. But inevitably the guy wants to go up on Thursday and come back on Sunday, and the train doesn't run on Thursday so he doesn't take it. And that's one of the reasons one of our objectives is to go daily with our tri-level trains when we can afford to.

Mr. **Lehman**. Mr. Carmichael?

Mr. **Carmichael**. I agree with him—they ought to get out of that commuter train that he's operating, and I agree with the three times a week being bad—it's hard to merchandise three times a week train services. And I do think that getting more postal service for Amtrak will help some of these long distance trains. In fact, if they can get two or three postal cars to go with these trains, they become very profitable, or self-sufficient.

Mr. **Claytor**. Yes, sir. I agree with that. Another problem that I didn't mention that he did on commuter trains is that you cannot get any mail on a three times a week train. You can't get mail unless the train runs daily.

Mr. **Carmichael**. Three times a week is a bad deal.

Mr. **Lehman**. Any way you look at it.

Mr. **Carmichael**. Yes.

GREYHOUND STRIKE IMPACT ON AMTRAK

Mr. **Lehman**. On the Greyhound strike, how has it affected Amtrak?

Mr. **Norman**. Mr. Lehman, we have seen a great change but it's hard to indicate how much of that is part of our regular service increase and how much is Greyhound. One indicator is that calls into our reservations offices at this time of year, which normally are in the 95,000 to 100,000 range per day, are now up to 135,000 sort of routinely. We also are seeing indications in our stations, because we tend to serve more than 500 communities across the country, many of them small. Amtrak happens to be in a position where we are the only other alternative they would have for a carrier is with us. So it is having some impact, but we have not yet been able to gauge the exact amount, but it is having some impact.

Mr. **Lehman**. Mr. Carmichael? Do you have any information with regard to Greyhound and Amtrak that you would like to add?

Mr. **Carmichael**. No, sir, I don't have any additional comments on that.

ROUTE PERFORMANCE STATISTICS

Mr. LEHMAN. For the record, Mr. Claytor, please provide the most recent route-by-route performance statistics for short distance and long distance routes.

[The information follows:]

NATIONAL RAILROAD PASSENGER CORPORATION
ROUTE REPORT
FOR THE FISCAL YEAR ENDING SEPTEMBER 30,1989

ROUTE NAME	REVENUE	NON FEDERAL PAYMENTS	SHORT-TERM AVOIDABLE COST	FEDERAL PAYMENTS	RATIO OF REV TO STAC	RIDERS	TOTAL PASSENGER MILES(PM)	SHORT-TERM P/(L) PER PM	ON TIME PERFORMANCE
	($000)	($000)	($000)	($000)		(000)	(000)	--$--	
NORTHEAST CORRIDOR									
01 METROLINERS	109,572		47,686	(48,942)	2.30	2,063	304,848	.203	.93
05 NEC-CONVENTIONALS	217,302		122,741	(58,705)	1.77	6,622	1,035,017	.091	.84
08 ATLANTIC CITY	1,861		4,514	3,752	.41	106	12,300	(.216)	.80
13 NEW YORK-PHILADELPHIA	12,881		9,148	(99)	1.41	2,005	86,491	.043	.86
14 PHILADELPHIA-HARRISBURG	2,786	405	5,402	3,556	.59	317	21,033	(.105)	.93
TOTAL NORTHEAST CORRIDOR	344,402	405	189,491	(100,438)	1.82	11,113	1,459,689	.106	
SHORT DISTANCE									
15 NYC-ALB-NIAGARA FALLS	35,144		26,649	625	1.32	1,053	194,362	.044	.78
20 CHICAGO-ST LOUIS	5,409	783	8,761	5,223	.71	243	43,084	(.060)	.39
21 CHICAGO-MILWAUKEE	2,259		3,235	1,819	.70	197	16,283	(.060)	.92
22 CHICAGO-DETROIT-TOLEDO	5,565		9,717	7,067	.57	296	50,395	(.082)	.82
23 CHICAGO-CARBONDALE	2,660	138	3,119	1,369	.90	91	17,946	(.018)	.86
24 CHICAGO-QUINCY	2,082	651	2,835	857	.96	79	14,258	(.007)	.78
35 LOS ANGELES-SAN DIEGO	22,686	940	21,542	3,534	1.10	1,694	136,924	.015	.76
36 PORTLAND-SEATTLE	1,426		2,357	1,486	.61	79	12,305	(.076)	.79
39 OAKLAND-BAKERSFIELD	9,573	1,548	11,597	3,267	.96	363	59,252	(.008)	.77
40 (NYC)-ALBANY-MONTREAL	3,840	227	4,162	1,173	.98	90	25,751	(.004)	.32
41 CHICAGO-PORT HURON-(TOR)	2,721	417	3,196	910	.98	99	17,494	(.003)	.64
53 CHICAGO-VALPARAISO	336		971	975	.35	139	3,635	(.175)	.86
54 CHICAGO-INDIANAPOLIS	1,396		2,579	1,811	.54	63	10,484	(.113)	.57
57 PITTSBURGH-PHILADELPHIA-(NYC)	5,135	310	4,143	17	1.31	174	32,808	.040	.73
65 CHICAGO-GRAND RAPIDS	1,662	465	2,186	622	.97	66	9,792	(.006)	.76
TOTAL SHORT DISTANCE	101,894	5,479	107,049	30,755	1.00	4,726	644,773	.001	
LONG DISTANCE									
WASHINGTON-MONTREAL	1,780		2,143	914	.83	29	12,474	(.029)	.89
NYC-COLUMBIA-FLA	36,883		35,068	10,658	1.05	429	325,878	.006	.51
17 CHICAGO-PHILADELPHIA-NEW YORK	17,038		17,484	6,944	.97	194	112,403	(.004)	.63
18 CHICAGO-WAS-NEW YORK	6,395		9,830	6,351	.65	105	50,319	(.068)	.72
19 NYC-CHARLESTON-FLA	37,170		32,749	7,049	1.13	454	336,466	.013	.51
25 CHICAGO-SEATTLE/PORTLAND	37,174		43,999	20,778	.84	413	324,913	(.021)	.43
26 CHICAGO-WASHINGTON	12,866		15,005	7,281	.86	164	86,300	(.025)	.71
27 CHICAGO-SLC-OAKLAND	43,245		46,009	16,697	.94	408	336,133	(.008)	.20
28 CHICAGO-LOS ANGELES	35,347		35,901	13,534	.98	283	319,014	(.002)	.35
30 CHICAGO-NEW ORLEANS	12,044		15,570	9,360	.77	213	108,000	(.033)	.27
32 CHICAGO-TEXAS-(LOS ANGELES)	13,450		17,199	8,747	.78	157	147,367	(.025)	.44
33 NEW ORLEANS-SAS-LA	11,826		16,590	9,590	.71	115	121,012	(.039)	.70
34 LOS ANGELES-SEATTLE	37,673		36,936	9,419	1.02	568	326,032	.002	.64
45 CHICAGO-NEW YORK/BOSTON	26,979		24,992	7,373	1.08	380	195,400	.010	.55
47 BOSTON-NEWPORT NEWS	10,286		6,626	(2,029)	1.55	302	73,253	.050	.84
48 NEW YORK-JACKSONVILLE	12,203		10,804	2,120	1.13	193	93,915	.015	.71
49 (CHI)-SLC-SEATTLE	12,012		16,648	9,878	.72	151	130,532	(.036)	.28
52 NEW YORK-NEW ORLEANS	27,746		29,053	11,540	.96	347	215,503	(.006)	.73
56 KANSAS CITY-CEN-(NEW ORLEANS)	4,044	1,940	6,998	2,940	.86	160	34,332	(.030)	.46
60 (CHI)-SLC-LOS ANGELES	16,433		15,671	4,448	1.05	161	189,650	.004	.59
63 AUTO TRAIN	43,997		29,823	(5,498)	1.48	230	196,879	.072	.77
TOTAL LONG DISTANCE	456,591	1,940	465,098	158,094	.99	5,456	3,735,774	(.002)	
ROUTE TOTALS	902,887	7,824	761,638	88,411	1.20	21,295	5,840,236	.026	

FEDERAL PAYMENTS AMOUNT IS THE DIFFERENCE BETWEEN A ROUTE'S TOTAL REVENUE (WHICH INCLUDES NON FEDERAL PAYMENTS) AND IT'S LONG-TERM AVOIDABLE COSTS.

LOS ANGELES-SAN DIEGO CORRIDOR INVESTMENTS

Mr. **Lehman**. Mr. Claytor, the Los Angeles-San Diego Rail Corridor Agency has expressed concern that Amtrak's lack of investment in that corridor is seriously inhibiting service in that area. Would you comment?

[The information follows:]

The Los Angeles-San Diego Rail Corridor is the second busiest corridor in the Amtrak system. We operate 8 round-trips on the route, as well as service to Santa Barbara. The route also is used for freight movements by the rail line owner, Santa Fe, and will become a heavy commuter line in the coming years.

Amtrak has invested more in the infrastructure of this line than practically any other line outside of the Northeast corridor, most of which we own and are responsible for. We are participating with the Santa Fe, Caltrans, and three counties in the replacement of rail along the line—Amtrak's investment will be $4.5 million over the four-year period.

The line needs significant capital improvements, particularly for an improved signal system, and we are willing to help share in this. However, it should be understood that Amtrak does not own the rail line. It has not been our policy to invest extremely scarce capital funds in rail lines owned by other railroads, even where we might benefit. As the committee knows, capital available for critical capital projects—modernized facilities, equipment, and maintenance of our own trackage—has been very limited and must be focused on our very top priorities that can help reduce our subsidy needs.

Mr. **Lehman**. Mr. Claytor, what is the matching ratio for funding improvements in that corridor?

[The information follows:]

Amtrak's contribution to the rail replacement program on the Santa Fe line was ten percent. We are willing to continue improvements based on this participation providing we have capital funds available for the improvement project.

COMMUTER TRAIN OPERATIONS

Mr. **Lehman**. Mr. Claytor, Amtrak's revenues from the operation of commuter systems is increasing. How many commuter systems is Amtrak currently operating, and what are your future plans?

Mr. **Claytor**. Mr. Chairman, we operate two commuter services under contract. I want to make the distinction between our operation of commuter services under contract, the operation of that Chicago-Valparaiso train, which is an Amtrak train itself that we are under the statute required to run as long as it meets the applicable criteria, and our 403(b) trains which are also a different category.

These commuter trains are commuter trains operated, owned and financed by local commuter authorities and we are hired to be the operator. What we do is to operate the trains; they reimburse us for all of our costs and an override for management. They in turn set the fares, get all the revenues and then pay us the costs. And it has turned out so far that we are able to do this job cheaper than they can do it themselves, it's more efficient, it's good for us, it's good for them, and I think it's a good thing overall. We are trying to expand it.

Now, Maryland DOT and Massachusetts Bay Transportation Authority are the two we are currently operating. MBTA is quite large. There are many others on the horizon:

Connecticut Department of Transportation, running between New Haven and Old Saybrook is already contracted for. That will start shortly.

We have contracted to be the operator of Virginia Railway Express, from Fredericksburg and from Manassas, Virginia into Washington when they're able to start and as soon as they get their equipment, about two years.

Orange County Transportation Commission in California, Los Angeles-San Juan-Capistrano. That will start in the late spring of this year.

The Dallas Area Rapid Transit between Dallas and Fort Worth; CALTRANS—its peninsula service out of San Francisco; and San Diego to Oceanside are all awaiting replies. They are putting out the requests for proposals, and we're going to submit proposals on them.

There are some others that are under study in Seattle, Los Angeles County, Riverside County, California, and San Bernardino County, California. We are interested in all of those. So this is a business where we think we can make a real contribution, we can make money on, and we can save the local areas money. And so we are working on it.

VIRGINIA COMMUTER SERVICES

Mr. **Lehman**. Mr. Claytor, can you update us on the status of plans to institute commuter rail between the Virginia suburbs and Union Station? When will that service begin?

[The information follows:]

Operation of commuter service between Washington and Manassas and Washington and Fredericksburg has been held up by Conrail's insistence on full indemnification for any claims resulting from the commuter operation. The Amtrak authorization bills that have passed each House both contain a provision acceptable to Contrail that would cap liability for damages resulting from the commuter operation, and the commuter railroad has insurance up to the level of the cap ($200 million). Enactment of an Amtrak authorization bill should resolve this issue and permit the commuter service to move ahead.

Amtrak has signed an agreement to operate the service and maintain the equipment for Northern Virginia. The commuter authority has ordered 28 cars and 8 locomotives. While this is *not* sufficient to operate full service, Northern Virginia does not plan to order the remaining 10 cars and 2 locomotives until the liability issue is resolved.

Mr. **Lehman**. Mr. Claytor, include an estimate of the annual ridership necessary for that system to break even, estimated service schedules and fare costs, and proposed station sites and parking availability.

[The information follows:]

As operator only of the Northern Virginia commuter service, Amtrak does not have access to the agency's ridership, schedule, and fare projections. The proposed station stops also have not been fully determined.

ON-TIME PERFORMANCE

Mr. **Lehman**. Mr. Claytor, we talked last year about Amtrak's slipping service performance, by the number of complaints and on-time performance data. What is the status today?

Mr. **Claytor**. Our system on-time performance for 1989 is up 3.7 percentage points from 1988. It's at the present time 75.1. Our objective is 80, so although we have improved, we don't consider it satisfactory.

On our Northeast Corridor, of course, and in our Metroliner service, we are much higher. But our overall average and our average of the contract railroads is not as good as we would like it. One of the problems, of course, is with the problem of mixing our trains with freight trains on single-track railroads and having these very long distances between double-track sections so that if you have one minor problem, if you have a signal bad out in the middle of the desert that holds you up for three hours, that may make that train late all the way into Chicago. So that is a problem. It's much harder to keep long distance trains on time than others.

Continuing problem areas of course are on the Illinois Central primarily; the New Orleans to Chicago train has got the worst on time record of any train we've ever had and we have been discussing that with the IC. We've had to slow the schedule down. Their railroad is not in very good shape; their freight train interference has been horrendous, and they are restructuring their railroad in such a way as to probably make it worse. And we're going to have to have some serious discussions with them and others about this very serious problem.

CUSTOMER COMPLAINTS

Mr. **LEHMAN**. Mr. Claytor, please expand on your answer for the record, including an update of the statistics shown on page 291 of last year's hearing record.

[The information follows:]

In fiscal year 1989 Amtrak received 33,083 comments, a decrease of 0.5 percent from fiscal year 1988. Complimentary or non-negative comments still account for 25 percent of the total received. Complaints on on-time performance and equipment problems were the most prevalent during fiscal year 1989. On the positive side was the fact that almost all service provided categories, such as personnel complaints, baggage and express and other on-board amenities, comments on these services decreased during this fiscal year. The following table shows the comparison of fiscal year 1988 and fiscal year 1989 consumer comments.

PERCENT OF TOTAL COMMENTS RECEIVED FISCAL YEAR 1988 VERSUS FISCAL YEAR 1989 YEAR-TO-DATE OCTOBER 1988 TO SEPTEMBER 1989

Comment group	Comments received		Comments received		Percent change
	Fiscal year 1988		Fiscal year 1989		
	Percent	Amount	Percent	Amount	
1. Equipment complaints	18.4	6,132	19.4	6,408	4.5
2. Commendations	9.9	3,307	9.8	3,253	-1.6
3. Misc. comments, Info requests, suggestions, unused Tkts/accom.	14.6	4,842	14.9	4,938	2.0
4. Personnel complaints	12.2	4,044	11.7	3,858	-4.6
5. Sched/resv/policy schedules, fares, policy, lost, stolen, dest. tkts., reservation/tkt. offices, travel agency, tours	11.0	3,645	11.6	3,848	5.6
6. Train performance	15.2	5,052	15.6	5,155	2.0
7. Checked baggage and express shipments	6.6	2,201	5.4	1,770	-19.6
8. All other categories (each makes up less than 7 percent of total comments): Passenger problems en route complimentary services, diner/lounge service, stations, police	12.1	4,035	11.6	3,853	-4.5
Total		33,258		33,083	-0.5

FREIGHT/COMMUTER JOINT USE OF TRACK

Mr. **Lehman**. Mr. Carmichael, what can you do about the freight railroads to help us run the commuter railroads on time?

Mr. **Carmichael**. Mr. Chairman, I am quite worried about that, because I've been talking with the Illinois Central also.

Mr. **Lehman**. They met with us in the Tri-County in South Florida.

Mr. **Carmichael**. That's right. And I'm trying to just jawbone some of these issues with these freight railroads in the way that they single track their lines and increase their attention to the passenger railroad service. We are making some progress with them, and they are beginning to realize the railroad industry is coming back rapidly. They also see that in the United States that a lot of their destiny and good business is going to come from passenger service and how it's perceived in the American public's mind. So I'm having—again using my term, I've had some prayer meetings with some of the railroads. And we will continue doing that. FRA feels that's a very responsible part of our role, to work with the freight railroads to make sure they are supportive of the Amtrak service.

MORALE OF AMTRAK EMPLOYEES

Mr. **Lehman**. Mr. Claytor, the overall morale of Amtrak employees today—how have the protracted labor negotiations affected service to your customers?

Mr. **Claytor**. The morale of employees is always a matter of subjective judgment. Those who have differences of opinion like to use low morale as a justification for their point of view, and morale will always differ by location and craft.

We do think that our morale overall has been impaired by the long delay in reaching labor agreements. Part of that results from a misunderstanding on the part of our workers as to Amtrak's situation. We have received letters complaining bitterly that Amtrak is now profitable and so you ought to share your profits with the workers. The fact that we are still losing up to half a billion dollars a year is lost. It's an education problem. We're trying to fix that.

Many think that Amtrak's progress has been due solely to cost cutting, that the reason we've done better is because we've cut costs and held back increases in wages. We've held costs down; actually costs have risen over the eight years. We've held them down, but the big difference has been an increase in revenue. That's the thing that's helped our financial position the most.

There are some positive areas here. At several locations, employee involvement programs which we are sponsoring such as our STOP safety program and operation Red Block indicate that most of our employees have a good feeling about Amtrak and their jobs there, they are proud of the improvements in safety and service and the role they play and we're trying to encourage that.

CUSTOMER COMPLAINTS

Mr. **Lehman**. But how has it affected customers? How many customer complaints do you get that are related to being unhappy with the way they've been treated by employees?

Mr. **Claytor**. It's interesting in looking at comments about our employees. We've had 5 percent more complaints about equipment than last year; 5 percent less complaints about employees. Our employees actually are doing better, and we working hard on that through both employee relations operations, through incentive arrangements and other things.

But we are doing better in that respect. We are not doing as well on equipment.

Mr. **Lehman**. You need to improve the morale of your equipment. [Laughter.]

Mr. **Claytor**. Yes, we do. That's right.

AMERICANS WITH DISABILITIES ACT IMPACT

Mr. **Lehman**. Mr. Claytor, the proposed Americans with Disabilities Act makes a number of requirements for handicapped access to both rail stations and passenger trains which affect Amtrak. What are the major provisions of that bill affecting Amtrak and what is your view of those provisions?

[The information follows:]

The House Energy and Commerce Committee recently marked-up its version of the ADA (the Dingell bill), which governs intercity rail. The bill will have a cost and revenue impact on Amtrak, but we support the need to provide our disabled passengers with even better access to our services.

Like the Senate-passed bill, all stations will have to be accessible within the next 20 years. We estimate a cost of $35 million in current dollars or about $53 million over the 20 years to comply. The Dingell bill provides that the public entity owning the station is financially responsible for making it accessible, which may reduce the cost to Amtrak somewhat in cases where local or commuter authorities own the station.

The Senate-passed bill provides that all new railroad cars must be accessible to all disabled individuals including those who use wheelchairs. This would mean that all new cars (coaches, sleeping cars, lounges and diners) must have accessible seating and an accessible bathroom. The Dingell bill also requires that all new cars be accessible, but makes some exceptions in the case of wheelchair accessibility. New bi-level diners would not have to include an accessible bathroom; instead, new bi-level lounge cars would have to provide table service for wheelchair passengers and include an accessible bathroom. Trains that include single-level coaches will have to provide at least half as many accessible seats and half as many spaces for a wheelchair as there are coaches on the train within five years of enactment. After ten years, these trains would have to provide as many accessible seats and as many accessible spaces as there are coaches on the train.

Amtrak is satisfied with the Dingell provisions, since they take into account the loss of revenue that results from a requirement that every single-level coach have an accessible bathroom and seating. Some retrofitting of coaches may be required to meet the five year and ten years standards. However, we believe that this is a better result than would result under the Senate-passed bill.

Mr. **Lehman**. Mr. Claytor, what is the estimated cost to Amtrak of that legislation?

[The information follows:]

We estimate that the requirement that all stations be accessible will cost Amtrak some $53 million over the twenty year period. The requirement that most of our passenger cars be wheelchair accessible will result in some loss of revenue, but the amount of the loss is uncertain at this time. If Amtrak is able to acquire sufficient equipment to meet the growing demand for rail passenger service, the revenue loss will be minimized. On the other hand, if Amtrak remains capacity-constrained, the loss of revenue could be significant.

Mr. **Lehman**. Mr. Carmichael, what is your assessment of that legislation, and of Amtrak's response?

[The information follows:]

The Administration has worked closely with and continues to strongly support the Senate passed Americans with Disabilities Act legislation (S. 933). This legislation will provide a clear national mandate to end discrimination against individuals with disabilities and bring persons with disabilities into the economic and social mainstream of American life. In terms of intercity rail passenger service, it is important to recognize that a great majority of the access requirements included in the ADA are already reflected in regulations issued by the Department implementing the Rehabilitation Act of 1973 (49 C.F.R. Part 27), and that the proposed legislation would in fact extend the compliance periods for a number of these requirements. I believe that Amtrak is committed to eliminating architectural and other barriers to full access to its services by the disabled and that Amtrak will make every effort to comply with the legislation when enacted.

ACCESS BY HANDICAPPED INDIVIDUALS

Mr. Lehman. Mr. Claytor, what restrictions do handicapped individuals face today, in both stations and railcars, in their Amtrak usage and absent the Americans with Disabilities Act, what is Amtrak's program for increasing that access?

[The information follows:]

Amtrak is proud of its ability to serve our disabled passengers. We provide accessible seating on all our trains, as well as provide accessible sleeping accommodations and meal-service on demand. We have a special services bureau that coordinates and assists disabled passengers at stations and making accommodations. More than 120,000 disabled passengers sought the assistance of the special services bureau last year and many tens of thousands of other disabled persons traveled on Amtrak unassisted. In addition, we provide special reduced fares for disabled passengers.

With respect to station, most in the Amtrak system provide curbside to train accessibility. Nonetheless, many stations that we use are owned by other railroad or parties and are not accessible in every respect. Some lack accessible bathrooms, ticket counters, phones, etc. The ADA will require that these stations be made fully accessible within 20 years.

Whether or not the ADA ultimately is enacted, Amtrak will continue to use its limited resources to better improve station accessibility and ensure that all disabled passengers that want to use Amtrak are able to use it. We are committed to providing the best service possible to all our passengers, including the disabled and other mobility-impaired travelers.

VALLEY FORGE SERVICE

Mr. Lehman. Mr. Coughlin?

Mr. Coughlin. One of my constituents, who happens to be a personal friend, is very concerned about train number 641, the Valley Forge, which leaves from New York and normally goes to the 30th Street station in Philadelphia then goes west to Harrisburg. It is proposed that the passengers bound for 30th Street which is the main Philadelphia station, get off at North Philadelphia station, wait for the next train to get them from North Philadelphia to 30th Street, and take the train directly to Harrisburg. He points out, and I would think probably correctly, that only a handful of passengers are going to Harrisburg from New York; that most of the passengers are going to 30th Street and wonders why the service can't be continued to 30th Street.

Mr. Claytor. Mr. Coughlin, I would like for Mr. Norman to take that, because he has the details. But as a former resident of Wynnwood, I am well acquainted with the main line in Montgomery County. This train was created primarily to provide good service from Paoli, Ardmore-Wynnwood, Ardmore-Bryn Mawr and points west, including Downington, Lancaster and Harrisburg to New York City. And it originally ran that way. We at some point, and at the time I thought it was a mistake, but I'm not the expert so I didn't overrule the marketing people, they took that train through Philadelphia.

Now, when you take that train through Philadelphia, it loses 35 minutes. It has to go into 30th Street, reverse direction and go backwards to New York. That I think is terrible service for Montgomery County people, and that's what this train is primarily for. So we've restored it to its original operation: from New York City, stopping at North Philadelphia, as all the Pennsylvania trains used to do when they went west, and then straight out the main line with two stops on the main line and then on west to the other two cities.

Now, I think the service is vastly improved to Montgomery County, and I don't think it's seriously impaired to Philadelphia. And I would like Mr. Norman, who has the details on that, to carry it forward.

Mr. NORMAN. As usual, Mr. Claytor has hit all of the relevant points. The only thing that I would add to that, Mr. Coughlin, is that we estimate that this change that is going to take place on April 2 is going to significantly improve the economics of the train also by about $300,000 additionally in revenues, in addition to saving 35 to 45 minutes for those individuals who are going west from Philadelphia.

The other side of the coin that I might add in there is that those individuals who had been catching this train, the Valley Forge which currently leaves at 5:06 p.m. and arrives at 6:20, will now be able to catch another train that leaves about a minute earlier and gets there seven minutes later on one of the clockers. There are some comments that that train is going to be very crowded and we will closely monitor the train and the ridership there to make certain that we can accommodate our passengers.

Mr. COUGHLIN. Do you have any figures on how many passengers would normally be going on to 30th Street compared to how many passengers are going west?

Mr. NORMAN. We are making the assumption, Mr. Coughlin, that those individuals will continue to go to 30th Street but take the train that's leaving—I told you the difference there, getting there 7 minutes later. For the other stops that will be missed, we are talking about basically 4 or less riders per stop, so overall we think the service will be improved.

Mr. COUGHLIN. But do you have any idea of the numbers who would be continuing on versus the numbers who will be getting off to go to 30th Street?

Mr. NORMAN. Mr. Coughlin, I'd be delighted to provide that for the record. I'm not precisely certain; I would like to give you the exact numbers.

Mr. COUGHLIN. Could you do that?

Mr. CLAYTOR. I'd like to add again, as a former resident up there whose family used to go to New York on the train often, that if I were going from Paoli or Bryn Mawr to New York, I would seriously question whether I want to take a train that went into 30th Street, took an extra 30 minutes and then had to go backwards. I just think that's bad service. I don't know how many are going now, but one of the points that I'd like to make is that when we make that a first class service, we're going to have a lot more people riding from out on the main line into New York than we do now.

[The information follows:]

Of the 51,000 passengers who traveled on the westbound Valley Forge between February 1989 and January 1990, approximately 29,300 traveled from New York and Newark to points west of Philadelphia, between Ardmore and Harrisburg. The remaining 21,700 passengers detrained at 30th Street Station or points east of that location.

Our expectation is that the travelers bound for 30th Street Station will either continue to travel on this train but get off instead at North Philadelphia Station to catch the next Amtrak train into 30th Street (approximately 5 minutes later), or they will wait in New York for the next New York-Philadelphia train, which departs approximately one hour later.

PASSENGER CAR SAFETY IMPROVEMENTS

Mr. **Coughlin**. On another subject, I believe the National Transportation Safety Board recommended that Amtrak modify the interior of its passenger cars to make them safer in emergency situations. Has that recommendation been carried out?

Mr. **Claytor**. It's been carried out completely in some classes of cars and is being carried out in all the rest. It's a multi-year project but we're making progress and we are on schedule with it.

DEFECTIVE CROSS TIES

Mr. **Coughlin**. Has Amtrak filed suit over the defective concrete cross ties installed at widely scattered locations along the East Coast corridor?

Mr. **Claytor**. Yes, sir. We've got an active litigation going against the Lone Star people who sold those.

Mr. **Coughlin**. Just one manufacturer?

Mr. **Claytor**. Yes. They all came from Lone Star, yes.

UMTA GRANTS FOR COMMUTER SERVICES

Mr. **Coughlin**. Just a couple of questions on the request for a grant from UMTA for $47 million to cover the fully allocated cost of the commuter rail operations in the Northeast Corridor. Of the $47 million, how much is attributable to each commuter railroad in the corridor? Do you know?

Mr. **Claytor**. I think we'll have to get that for the record.

[The information follows:]

For fiscal year 1991, the $47 million would be allocated as follows:

Maryland DOT	$4.3
SEPTA	7.4
New Jersey Transit	27.8
Connecticut DOT	2.1
MBTA	5.4
Total	47.0

This amount will fluctuate from year to year depending on Amtrak's annual track-maintenance program in each state.

Mr. **Coughlin**. If you were to receive these funds, would you reduce your request for Federal assistance from other sources by a like amount?

Mr. **Claytor**. No, because that's a Northeast Corridor Improvement problem and the amount of undone stuff on the Northeast

Corridor is far greater than that. So until we get the rest of the Northeast Corridor work done, I don't think we can ask for less.

[The following clarification was provided for the record:]

If these funds were provided by UMTA or the commuters, our operating costs would be reduced on a dollar-for-dollar basis.

Mr. COUGHLIN. Thank you, Mr. Chairman.

AMTRAK'S SAFETY RECORD

Mr. LEHMAN. Thank you, Mr. Coughlin. Mr. Carmichael, would you update us on Amtrak's safety record over the past year, and tell us where they rank among Class I railroads?

Mr. CARMICHAEL. Amtrak ranks fourth, Mr. Chairman, in Class I railroads.

Mr. LEHMAN. Do you have any data on international passenger rail systems to compare with Amtrak's record?

Mr. CARMICHAEL. No, sir, I don't. But I have some data that's fairly interesting. The high speed rail in Japan, the bullet train that's been operating for 25 years, has no grade crossings. In 25 years it's had no fatalities.

Mr. LEHMAN. Is Amtrak ranked fourth out of four or fourth out of 40? I know they're ranked fourth—out of how many?

Mr. CARMICHAEL. Number four out of—in Class I, there are 20 of them.

Mr. LEHMAN. Fourth of 20.

Mr. CARMICHAEL. Yes, sir.

RAILROAD SAFETY STATISTICS

Mr. LEHMAN. For the record Mr. Carmichael, would you update the railroad safety data shown on page 293 of last year's hearing record?

[The information follows:]

SUMMARY OF LARGE PASSENGER CARRYING RAILROADS

Railroad	.....ACCIDENTS.....			......RATE......		
	1987	1988	1989	1987	1988	1989
Amtrak	85	98	97	2.61	2.26	2.50
Long Island	7	15	12	0.93	1.82	1.39
Metro North	27	30	27	3.72	4.10	3.68
Metra	3	1	5	1.26	0.37	1.73
New Jersey Transit	24	29	27	4.09	5.00	4.65
Port Authority Transit[1]	4	4	0	2.28	2.39	0.00
South Eastern Pennsylvania	8	9	11	0.82	1.00	1.13
	158	195	179	1.70	2.34	2.37

[1] PATH DID NOT PROVIDE TRAIN MILES

SUMMARY OF ACCIDENTS FOR CLASS 1 RAILROADS

Railroad	....ACCIDENTS......			........RATE........		
	1987	1988	1989	1987	1988	1989
Amtrak	85	98	97	2.61	2.26	2.50
Santa Fe	137	167	121	3.03	3.36	2.40
Burlington Northern	296	385	370	3.44	4.34	4.21
North Western	176	149	132	10.81	8.44	7.11
Conrail	133	180	173	2.91	3.62	3.60
CSX	410	363	444	5.58	5.13	6.53
Delaware & Hudson	20	7	10	12.68	6.87	6.74
Denver Rio Grande	2	10	6	0.35	1.52	0.85
Elgin Joliet Eastern	22	21	12	14.27	11.57	7.23
Florida East Coast	4	9	12	1.23	2.69	3.73
Grand Trunk Western	54	57	43	10.76	10.75	7.40
Illinois Gulf	40	41	67	4.52	4.74	7.36
Kansas City Southern	24	16	10	2.27	1.40	0.96
Louisiana Arkansas	7	11	16	1.50	1.48	3.27
Norfolk Southern	196	189	158	4.12	3.73	3.07
Soo Line	115	129	94	10.31	14.06	10.83
Southern Pacific	168	180	192	5.00	4.98	4.48
St Louis Southwestern	29	52	55	3.87	6.38	6.02
Springfield Terminal	29	37	28	13.89	31.22	20.75
Union Pacific	297	555	602	4.47	7.12	8.19
	2,244	2,656	2,556	4.41	5.02	4.71

COMPARATIVE DATA FOR INTERNATIONAL RAIL SYSTEMS

Mr. **Lehman**. Also for the record, Mr. Carmichael, provide any comparative safety data for international passenger rail systems.

[The information follows:]

The only international railroad system we have accident statistics on is the Canadian system which consists of only two railroads—the CP and CN. Neither of these railroads is a passenger-only carrier as is Amtrak. Therefore, a direct comparison with Amtrak would not be valid.

CHESTER, PA ACCIDENT SAFETY CONCERNS

Mr. **Lehman**. Mr. Claytor, Amtrak has two open NTSB recommendations concerning the January 1988 at Chester, Pennsylvania. What are those recommendations, and what are you doing to close them?

[The information follows:]

R-89-3: Develop and implement a procedure to prevent locomotives or trains from entering out-of-service track sections, unless permission has been received from the person in charge of the out-of-service track.

Amtrak has implemented several additional procedures designed to prevent locomotives or trains from entering out-of-service track sections. The operating rules have been modified to require that operators, when routing trains around out-of-service tracks, first establish the alternate route by aligning and blocking the necessary switches and reporting the establishment of the alternative route to the train dispatcher before requesting permission to remove blocking protection for the out-of-service track. The train dispatcher is governed by the same provisions and must not grant permission to remove blocking until the operator has confirmed that an alternate route has been established.

We have modified and reissued instructions mandating the use of shunting track barricades to protect both ends of all work zones on out-of-service tracks, to include interlockings.

We have reinstituted procedures requiring that in addition to the use of barricades at all locations, within interlockings and in block signal territory not protected by panel blocking, C&S employees will de-energize track circuits within work areas. We believe these additional requirements provide an adequate level of backup protection to the blocking requirements of the operating rules in protecting out-of-service tracks.

R-89-4: Develop and implement a procedure for the prior notification of engineers and conductors when a track is out-of-service.

As indicated in my earlier comments, we do not believe instituting a program of prior notification of all train crews, of locations where track is out of service, by the use of train orders is the most effective method of providing additional protection. Given the magnitude and complexity of the Northeast Corridor operations, we believe the steps outlined in the response to R-89-3 provide adequate, additional protection without increasing the complexity of operating procedures or significantly adding to the workload, responsibilities or opportunities for error of train dispatchers, block operators or train and engine personnel.

SACO, MT ACCIDENT SAFETY CONCERNS

Mr. **Lehman**. In its May 1989 report into an Amtrak accident near Saco, Montana, NTSB wrote: "The Safety Board is disappointed with Amtrak's continued use of sleeping compartments that are not equipped with emergency exit windows. The Board continues to believe that this presents an undue risk to passenger safety and urges Amtrak to reconsider its position."

Mr. Claytor, would you comment?

Mr. **Claytor**. We concur. We concur with the recommendation and we are in the process of doing it as rapidly as we can. We have installed emergency windows in sleeping compartments and hallways of 88 percent of the 68 Superliners, large numbers of the other cars—I have a whole series of statistics here that I can give you for the record. The balance of the cars will be done in two years. However, all of these cars have at least four emergency windows installed; all future new sleeping cars are designed with every window having an emergency exit; and we've installed the emergency exits in the crew cars.

[The information follows:]

Superliner—68 cars: 60—completed, 8—remaining.
10/6: 82—to do, 32—completed, 50—remaining.
11 DBR & Slumbercoaches: 32—to do, 12—completed, 20—remaining.
Lower Level Bag Dormitory: 21—to do (active), 6—done, 15—remaining.
Hi Level Trans Dormitory: 35—to do, 25—completed, 10—remaining.

Mr. **Lehman**. Mr. Carmichael, who is right in this case, the safety board or Amtrak, and why?

[The information follows:]

There doesn't seem to be a ready answer as to who is right. Given that NTSB did not make a formal recommendation that Amtrak design and install additional emergency exits in its passenger coaches, it appears that NTSB is not certain that they are necessary. As for Amtrak installing such emergency exits on its own, it apparently believes that the existing exits are sufficient, and in this particular accident, all evacuations were safely accomplished with the emergency exits that were available.

NEC SAFETY IMPROVEMENTS

Mr. **Lehman**. Mr. Claytor, what is the status of Amtrak's efforts to improve safety on the Northeast Corridor (NEC)?

[The information follows:]

The status of safety-related projects on the NEC is as follows:

Passenger car modifications to install baggage and on-board equipment restraints, seat locks, and 480-volt receptables: 173 cars completed out of 605—480-volt receptables; 390 cars completed out of 596—seat locks; 340 cars completed out of 605—baggage restraints.

Locomotive modifications to include event recorders and cab signal/speed controls on switchers: 35 work locomotives completed out of 40.

Installation of CETC and related signal upgrades between Wilmington, Delaware and Newark, New Jersey—Phase I. (Phase I consists of installing phase selective track circuit, reverse signalling, installing express cable and replacing wooden relay housing plus implementing central control from Landlith to Philadelphia.)

Field work for track circuits is complete, replacing wooden relay cases is complete, and installing express cable is 80 percent complete. Implementing CETC is awaiting delivery of RTU units. This delivery is expected by July 1990 and CETC up to Phil is scheduled for August 1990.

Communication and signal system upgrades within the NEC to convert to color position signal lights: The installation of color position signals is progressing. Material has been received and ten locations have the new color position signals in service.

Track improvements within the NEC to include installation of concrete ties, CWR, and undercutting to avoid installation of additional wood ties. The 1989 NECIP Program for the installation of concrete ties, CWR and undercutting was 100 percent completed.

Facility improvements at the New York Sunnyside Yard to complete new engine house. Plans and specifications are complete. The $2.0 million is necessary to complete the $13 million funding for progressing the project.

Mr. **Lehman**. Mr. Carmichael, do you believe that these efforts are adequate?

[The information follows:]

Yes, I believe these efforts are adequate. We work closely with Amtrak, not only to improve safety in their operations, but to modify or make design changes in their equipment to enhance safety for both the public and their employees. The FRA also regularly monitors Amtrak for compliance with existing regulations and takes appropriate corrective action when warranted to ensure compliance.

NEC SAFETY REPORT

Mr. LEHMAN. Mr. Carmichael, for the record would you provide a copy of DOT's November 1989 report on safety improvements in the NEC?

[The information follows:]

US Department
of Transportation
**Federal Railroad
Administration**

Northeast Corridor Safety Report

Report to Congress

Office of Passenger
and Freight Services

November 1989

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

November 8, 1989

The Honorable J. Danforth Quayle
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The enclosed report is submitted in accordance with the requirements of Section 11 of the Rail Safety Improvement Act of 1988, Public Law 100-342, for a report on the status of efforts to improve safety on the main line of the Northeast Corridor.

Sincerely,

Samuel K. Skinner

Samuel K. Skinner

Enclosure

Northeast Corridor Safety Report

I. PURPOSE

This report responds to Section 11 of the Rail Safety Improvement Act of 1988 (P.L. 100-342), which requires that the Secretary of Transportation ("Secretary") report to Congress on the status of efforts to improve safety on the Northeast Corridor (NEC) main line. Safety improvements reported include actions initiated by railroads operating on the NEC, as well as their efforts in response to requirements of the Federal Railroad Administration's (FRA) safety regulations and recommendations by the National Transportation Safety Board. The report also lists suggestions for further actions to improve NEC main line safety from the Northeast Corridor Safety Committee, which was established under the same legislation to advise the Secretary on safety improvements for the NEC main line.1/

The report focuses on safety improvements to the main line of the Northeast Corridor and only briefly discusses the status of industry-wide safety efforts. Three important rulemakings are among industry-wide safety efforts not discussed in detail in the report. They cover (1) drug and alcohol

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1/ See Appendix A for a complete list of members.

prevention, (2) tampering with safety devices, and (3) locomotive operator qualifications. Obviously, such improvements will also improve main line safety.

II. BACKGROUND

The NEC main line traverses 457 route-miles from Boston, Massachusetts, to Washington, D.C.[2/] Operational control and safety responsibility are divided between Amtrak and the Metro-North Commuter Railroad: Amtrak from Boston to New Haven, 156 miles; Metro-North from New Haven to New Rochelle, New York, 56 miles; and Amtrak for the remaining 245 miles to Washington, D.C.

The NEC main line serves the most densely populated region of the United States. The region (counties contiguous to the main line) is nearly 30 times more densely populated than the U.S.--2,004 persons per square mile versus the national average of 69.

[2/] The NEC main line excludes branch lines to Harrisburg, Pennsylvania; Atlantic City, New Jersey; Albany, New York; and Springfield, Massachusetts.

Traffic

NEC main line passenger traffic has grown steadily over the last decade. In 1977, approximately 390 daily commuter trains used the main line. By 1988 this number had grown to 540, and commuter ridership was up 36 percent, from 39 million to 53 million riders annually. During the same period, Amtrak service remained fairly constant at around 110 trains per day, although annual passengers increased 21 percent, from 8.7 to 10.5 million. Both Amtrak and commuter authorities anticipate adding trains over the next 10 years.

Freight traffic, on the other hand, decreased quite dramatically between 1977 and 1988, mainly as a consequence of diversion of Conrail freight trains to other freight lines following the rehabilitation of those lines and construction of improved connections. Freight car miles fell from 168 million to 41 million between 1977 and 1988, a decline of 75 percent (see chart 1)3/. Daily through-freight trains on the main line were reduced from 161 in 1977 to 34 in 1988.

3/ Statistics were provided by Amtrak. They include car miles for the Philadelphia/Harrisburg and Springfield/New Haven properties which Amtrak owns, but which are not part of the NEC main line.

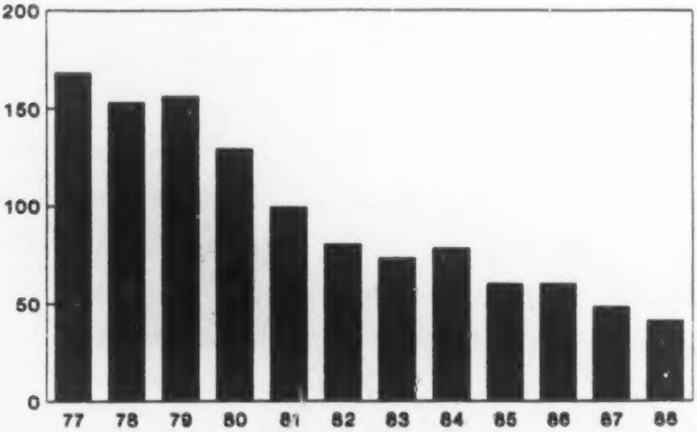
NEC FREIGHT CARMILES
(MILLIONS OF CARMILES)

CHART 1

Of the remaining 34 freight trains on the main line, all but 3 operate between 10 p.m. and 6 a.m., when there are virtually no commuter or intercity passenger trains.

The Northeast Corridor Improvement Project (NECIP)

The main line was recently rehabilitated by NECIP, pursuant to Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976. Improved safety of rail operations was the foremost objective of the Project. Of the $2.3 billion spent, almost 60 percent was for track and related improvements. Modernization of signals and communications, and upgrading the electrification system accounted for another 23 percent.

Other major components of NECIP included public and private grade crossing elimination, fencing at parklands, rehabilitation or new construction for 11 stations, construction of two major equipment service facilities, four maintenance-of-way bases, and a fueling facility.

NEC Main Line Safety

Accidents on the NEC main line have declined over the last decade. Table 1[4/] presents NEC main line accident statistics for 1977-1988. In 1983, reported accidents reached a low of 33, down from 96 and 106 in 1977 and 1978 respectively. Since 1983, the NEC main line has averaged 44 accidents per year.

III. STATUS OF ACTIONS TO IMPROVE NEC SAFETY

Safe travel on the NEC is a shared responsibility. The operating railroads, the Federal Railroad Administration, and the National Transportation Safety Board ("NTSB") all play a role. Railroads operating over the NEC implement actions to improve safety. FRA promulgates and enforces safety

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[4/] Table 1 represents accidents on the NEC that were manually extracted from the accident/incident data base maintained by FRA.

Table 1

Accidents on Northeast Corridor Main Line

Accident Causes	'77	'78	'79	'80	'81	'82	'83	'84	'85	'86	'87	'88
Track, Roadbed, and Structures	22	24	23	25	21	20	13	10	18	16	13	19
Signal and Communication	1	0	0	0	0	0	0	0	0	0	1	1
Mechanical and Electrical	24	45	21	21	16	12	7	4	13	11	23	8
Train Operation-Human Factors	27	10	22	11	15	13	9	12	6	6	14	11
Miscellaneous	22	27	18	17	14	13	4	11	8	5	5	6
Total	96	106	84	74	66	58	33	37	45	38	56	45

Source: Federal Railroad Administration, Office of Safety regulations which require carriers to take action. The National Transportation Safety Board investigates major accidents and makes recommendations which can influence FRA regulations and carrier actions.

Railroads on NEC Main Line

Railroads operating on the NEC main line are making considerable efforts to improve safety, with Amtrak, owner of the largest portion of the NEC, leading the way. Three key areas for Amtrak are modernization of NEC signal and traffic control systems, rehabilitation of NEC tunnels and bridges, and greater management emphasis on safety. Amtrak is also modifying the interior of its passenger cars to make them safer in emergency situations. These modifications are being made at the recommendation of the NTSB.

Amtrak is installing a centralized electrification and traffic control ("CETC") system which uses computers to control train operations and the distribution of electric power on the main line. Computer speed, accuracy, and precision in the dispatching of busy NEC operations add a measure of safety to the control of this electrified rail line that is not possible under manual control. CETC is operational between Washington and Wilmington. The

Wilmington-Philadelphia segment will become operational late in 1989. Work is continuing on the Boston to Cranston, Rhode Island, segment which is also scheduled to become operational in late 1989. Remaining segments will become operational between 1989 and 1994.

Tunnels are another area receiving special attention. Under NECIP, over $40 million was spent on a completely restored roadbed in the B&P Tunnel in Baltimore, and improved tunnel ventilation, lighting, evacuation and fire protection systems for the North (Hudson) and East River tunnels serving New York City. In the spring of 1989, Amtrak initiated a major study of further improvements to New York City tunnels. The study focuses on emergency evacuations and related improvements. Budgets and construction schedules will be completed by late 1989.

Amtrak maintains an extensive bridge and track inspection program. Recently an underwater inspection of all bridges between Washington and New York City was completed. Inspections between New York and Boston are scheduled for 1989. Major rehabilitation work is scheduled in 1989 and 1990 for Bush and Gunpowder river bridges, two major NEC bridges between Baltimore and Wilmington. All piers will be encased at the water line, chemical grout will seal pier caps and channels at the caps will be renewed. Bearings on the lift span of Bush River Bridge will also be replaced. During 1990, superstructure (track level and above) repairs are scheduled at both bridges.

Metro-North and the State of Connecticut are rehabilitating five moveable bridges between New Rochelle and New Haven. Four rehabilitations are nearly complete, and detailed engineering and design work has begun on the fifth.

High speed operations on the main line place unique inspection requirements on Amtrak. Tracks are inspected daily with track supervisors and district engineers required to review, sign, and date all inspection reports. Any unusual occurrence such as a fire, flood, heavy snowfall, derailments, or especially hot temperatures (90° F or above) require special inspections and reports. Every sixty days, Amtrak operates its track geometry measurement vehicle over the NEC main line to gather data on track gauge, profile, and elevation. Noted defects are verified and corrected.

In 1985 Amtrak, Conrail, and other rail operators in the Northeast formed the Northeast Operating Rules Advisory Committee ("NORAC"). In October 1988, this group published and implemented a single set of operating rules for the region. No longer are train operations controlled by different rules promulgated independently by the various owners of rail lines. Train crews are now governed by a single set of rules, where as in the past one crew may have used as many as three different sets of rules during a single trip. Metro-North was not a member of NORAC but, concurrently with the work of the NORAC group, rewrote its Book of Operating Rules. These rules, particularly with respect to train control and cab signals, are consistent with those developed by NORAC, thus insuring uniformity of operating practices for the entire length of the NEC main line.

In another management initiative, Amtrak has added safety auditors to its professional staff with responsibility for monitoring train dispatching, tower operations, and maintenance-of-way crews to increase compliance with appropriate rules. Amtrak has stepped up its inspections of freight locomotives and equipment entering the NEC to ensure that the equipment is in safe operating condition. Equipment deemed unsafe is removed from service and is not permitted on the main line.

Federal Railroad Administration

FRA has responsibility for regulating and enforcing railroad safety. Two actions taken by FRA illustrate efforts to improve NEC main line safety: (1) initiation of a program for replacement of hollow axles on commuter cars, and (2) mandating of Automatic Train Control ("ATC") on all trains on the NEC. In 1983 FRA inspectors investigated a failure of an axle on a commuter train on the NEC main line. Subsequently, FRA conducted an evaluation which determined that characteristics of hollow axles allowed wheel bearings to rotate about the axle causing scoring and ultimately shearing of the axle or overheating of the bearing leading to seizure. Based on these results, the commuter railroads elected to convert to solid axles to reduce the possibility of failure.

On November 16, 1987, FRA issued final orders directing railroads operating on the NEC main line to install ATC on all locomotives used on the main line by July 1, 1990. ATC systems insure that trains are operated in conformity with restrictive signal indications. Because the Rail Safety Improvement Act of 1988 established April 1, 1990 as the deadline for installing ATC, FRA issued a second order on October 12, 1988, specifying the new date.

All Amtrak and Metro-North passenger locomotives are equipped with ATC. Conrail will complete installation of ATC on its locomotives by the end of 1989. The remaining NEC carriers, the Southeastern Pennsylvania Transportation Authority and New Jersey Transit Corporation, are on schedule to install ATC within the statutory dates.

National Transportation Safety Board

NTSB is an independent Federal agency established by the "Independent Safety Board Act of 1974" (P.L. 93-633). It has the statutory responsibility "...to promote transportation safety by conducting independent accident investigations and by formulating safety improvement recommendations." NTSB recommendations are "a suggested course of action to correct a safety deficiency which has been adopted by the Board and transmitted to appropriate addressees" (NTSB Order No. 82-6/11/87).

Listed below are actions currently underway in response to NTSB recommendations relating to the NEC:

ACTION	STATUS
Modify wayside signals so that stop aspects are displayed by red lights.	Funding approved, material ordered. Modifications have begun; estimated completion mid-1991.

ACTION	STATUS
Modify Heritage cars so emergency windows can be removed quickly.	As Heritage cars move through heavy shop overhaul, emergency windows corrected. Estimated completion 10/92.
Install operable train-to-train and train-to-station radios on all locomotives.	Amtrak rules currently require working radios on all NEC trains. Amtrak, Conrail and all commuter trains are equipped with radios, and Amtrak crews carry portable radios which can be used as backup.
Upgrade operating rules on out-of-service track, emergency procedures, and speed restrictions.	Operating rules have been modified to prevent locomotives from entering out-of-service track sections.
Redesign the interior of passenger cars, including seat locks, baggage and kitchen equipment restraints, and seat back cushion fasteners.	Project is 29 percent complete. All equipment to be modified by 1991.

Legislative Initiatives

The Rail Safety Improvement Act of 1988 enacted on June 22, 1988, is a significant milestone in the history of railroad safety. As discussed earlier, the Act requires the installation of ATC on all trains using the NEC main line by April 1, 1990. All railroads are on schedule to meet that deadline. In addition, the Act addresses several industry-wide rail safety issues, including qualifications of locomotive operators, camp car protection, dispatcher training, installation of event recorders, grade crossing safety, tampering with safety devices, civil penalties against individuals, and increases in maximum civil penalties for safety violations.

Progress on these actions, which will improve rail safety nationwide as well as on the NEC main line, has been significant. As of June 30, 1989, FRA had issued new rules regarding tampering with safety equipment and civil penalties against individuals. Maximum penalties have been increased, and FRA's inquiry into training standards for train dispatchers is complete and under review by senior DOT officials. Proposed rules have been issued for protecting camp cars, and a grade crossing demonstration project is scheduled to begin in the fall of 1989. When rulemakings now underway are completed, new regulations will govern accident reporting, installation of event recorders, safety at grade crossings, and qualifications of locomotive operators.

IV. NORTHEAST CORRIDOR SAFETY COMMITTEE

The Northeast Corridor Safety Committee was established by the 1988 Safety Act to advise the Secretary on safety improvements to the NEC main line. The Committee, appointed by the Secretary of Transportation in September 1988, was briefed on actions of the carriers to improve rail safety. There was general agreement within the Committee that rail safety along the NEC main line was satisfactory. The Committee offered no recommendations to the Secretary for further actions to improve NEC safety but, among the many issues that were discussed, the Committee highlighted three deserving further consideration.

- Trespassers and Vandalism. There was general agreement on the need for improved coordination between local law enforcement officials and the railroad police along the NEC to reduce trespassing and vandalism.

- Training. There was support for increased training of operating personnel and supervisors, especially in the area of alcohol and drug abuse detection.

- Equipment Inspection. Finally, there were suggestions that NEC railroads should evaluate current procedures and practices for inspecting equipment before dispatching.

The Department supports these suggestions and will discuss their implementation with NEC operating railroads and local officials.

V. SUMMARY AND CONCLUSIONS

The NEC main line is, and will continue to be, the busiest section of railroad in the nation. It offers fast and frequent rail passenger service, employs advanced train control and track geometry measurement systems, and carries more than 63 million intercity and commuter passengers each year, a total which has climbed steadily in recent years. By contrast, NEC freight traffic has declined more than 75 percent since 1977. Most of the remaining freight moves at night, when there is little passenger traffic. Accidents on the main line are down from about 100 annually in the late 1970's, to 40-45 per year now.

Progress is being made on the implementation of safety improvements on the NEC main line. Areas where progress is being made include: (1) implementation of management initiatives to reduce accidents; (2) installation of ATC on all trains using the NEC to assure compliance with restrictive signal conditions; (3) installation of a centralized electrification and traffic control system to improve control of dense train operations on the main line; and (4) modifications to Amtrak passenger car interiors to make them safer in emergency situations.

APPENDIX A

NEC SAFETY COMMITTEE

1. Amtrak Representative -

Mr. W. Graham Claytor
President, National Railroad Passenger Corporation
Represented by:
Mr. Dennis F. Sullivan
Executive Vice President & Operations Officer
National Railroad Passenger Corporation
400 North Capitol Street, N.W.
Washington, D. C. 20001

2. Conrail Representative -

Mr. Richard B. Hasselman
Senior Vice President, Operations
6 Penn Center
Philadelphia, Pennsylvania 19103

3. Commuter Representatives -

a. Metro-North

Mr. Peter E. Stangl
President & General Manager
347 Madison Avenue
New York, New York 10017

b. New Jersey Transit

Mr. Alan Dustin
Vice President & General Manager
New Jersey Transit Rail Operations, Inc.
1160 Raymond Boulevard
Newark, New Jersey 07101

4. Railroad Passenger Representative -

Mr. John Kirkwood
2636 Union Street
San Francisco, California 94123

5. Labor Representative -

Mr. Daniel Collins
Assistant General Secretary and Treasurer
UTU
14600 Detroit Avenue
Cleveland, Ohio 44107

6. Public Member -

Dr. Roger Horn
Geneva Hill
12101 Falls Road
Cockeysville, Maryland 21030

FIRE AND SMOKE DETECTORS

Mr. **Lehman**. Mr. Claytor, there have been some problems in finding a reliable fire and smoke detector. You have been testing some commercial systems. What are the results of your testing, and when will all appropriate cars be outfitted?

Mr. **Claytor**. Well, we've experimented with different detectors. This is a difficult problem. We started using battery powered detectors in 1988 and hardwired systems in 1989. We are currently looking at improved versions of hardwired systems with battery backup. Installation in crew cars is complete. All the crew dormitories are complete. But we've had a real problem.

As it turns out, the crews steal the batteries out of the battery-powered systems and take them home. The hardwired detectors have been going off when people improperly smoked in their compartment, and when the thing went off, the crews promptly smashed the detector to stop it. So none of those are working very well.

What we are hoping to do is to apply these combination battery backup, hardwired detectors and put them not out in the open but in the air passageways, where people can't get at them. We think maybe that will be the final solution. In any event, we're working on this.

Mr. **Lehman**. What's happening overseas? They have the same problems, don't they?

Mr. **Claytor**. We understand that there have been smoke detectors installed in cars overseas, but we haven't got any hard information on them or hard information as to how well they work.

Mr. **Lehman**. Mr. Carmichael, do you have any suggestions?

Mr. **Carmichael**. Our information is less than his. To my knowledge, we have not found any European passenger vehicles with smoke detectors in them.

Mr. **Lehman**. They don't have them?

Mr. **Carmichael**. To my knowledge, they don't have them.

Mr. **Lehman**. Mr. Claytor, please expand on your answers on fire safety for the record, and please provide an implementation schedule for improved fire safety devices.

[The information follows:]

There is nothing more to add.

TILT-TRAIN DEMONSTRATION PROJECT

Mr. **Lehman**. Mr. Claytor, based upon a recommendation of the Coalition of Northeastern Governors, Amtrak undertook an evaluation of the potential of tilt and turbo train technologies for reducing travel time along the NEC. That evaluation was completed. You've talked about it already to some extent. What were the results?

Mr. **Claytor**. What we find we can do—for each equipment type, we found that running time between Boston and New Haven was 24 minutes faster than present trains operating around the curves, if you could go around the curves faster. The tilt equipment, of course, would have a much bigger effect than that. We are now talking about the standard equipment.

As a result of these tests, we have applied to FRA for approval to increase allowable speeds around curves along the New York-Boston route using standard equipment. And we are hopeful that with that we can get the New York-Boston time down to under four hours. This is without any of these extensive changes we're talking about.

Mr. **Lehman**. This is what you were talking about with Mr. Conte earlier.

Mr. **Claytor**. Yes. And I was talking to him about getting it under three hours, when we get electrification, changes in the track and this new tilt equipment. But we think this summer we might be able to get that under four hours, and that's what we're shooting at on a short term basis.

Mr. **Lehman**. And the FRA's assessment of Amtrak's assessment?

Mr. **Carmichael**. Mr. Walsh.

Mr. **Walsh**. Mr. Chairman, we have worked with Amtrak last fall making several tests. We do have all the test data and at the present time, the technical staff and the legal staff are up taking a look at granting the relief that Amtrak has requested.

Mr. **Lehman**. Can you approximate the time savings?

Mr. **Walsh**. Hopefully in time for the new timetables.

Mr. **Claytor**. Yes. That's what we would like. Thank you very much.

Mr. **Carmichael**. Mr. Chairman, I would like to add just a quick comment on this tilt technology. Mr. Claytor and I rode it—in fact, I've ridden it in Spain and Italy and Sweden. Tilt technology has a great application in the United States, on our freight railroads. And it is a very good, first class product. It goes around curves at a very comfortable speed, a good speed, and very comfortable for the passengers. So this assessment that we are doing can be further supported by the fact that tilt technology ought to be in the United States and the FRA is working on promoting that application of it now.

Mr. **Lehman**. Mr. Claytor, what is the plan for implementation of those technologies, and how will it be financed?

[The information follows:]

The use of tilt equipment and high-power electric locomotives on the Northeast Corridor could result in 2 hour 15 minute service between Washington and New York, and 2 hour 59 minute service between Washington and New York, and 2 hour 59 minute service between New York and Boston. Although we have no immediate plans to acquire new tilt equipment, acquisition of new tilt cars likely would be part of an overall project to improve travel times between New York and Boston. The cars could be financed with trust fund revenues if Amtrak were permitted to participate in a transportation trust fund. It might also be possible to partially finance the cars by relying on incremental revenues generated by high-speed service north of New York.

We hope to be able to test a tilt train developed by ABB Traction, a European conglomerate, sometime next year. We were very favorably impressed by the equipment during a recent trip to Sweden and are working on arrangements for such a test.

AMTRAK'S WASTE DISPOSAL PROBLEMS

Mr. **Lehman**. Mr. Claytor, what's the status of the appeal on the Florida waste disposal case?

Mr. CLAYTOR. Amtrak was convicted of violating a Florida law by releasing wastes over a river. We then filed suit in Federal court to enjoin enforcement of the Florida law and the court issued a preliminary injunction halting any sentencing in that case. The trial in the Federal case is scheduled for April 30.

Several other states have filed it. Oregon brought an administrative action against Amtrak for the same thing. We filed an administrative appeal and that's pending; and there's one in Nevada. We, of course, are working very hard to perfect a waste disposal system pursuant to which we could have new cars hold wastes and not release them on the right-of-way at all. That's not an easy problem.

As far as I know, there are no long distance trains in the world that are able to do that at the present time. On a short distance train it's easy—we can do it in the Northeast Corridor for short runs. We hold the waste and can have it discharged at the terminal. But if you're running 48 hours, as our trains do from Chicago to the West Coast, there's no way to hold it with the present technology.

However, there are concepts that several companies have put together, and we are testing those right now. We are installing competing methods in three or four different types of cars and we hope to have them in operation and hopefully we will develop one or two methods that will be able to withhold wastes for as much as the necessary 48 hours. So that's where we are now.

But in the meantime, Mr. Chairman, there is not a single long-distance car on Amtrak that could meet the state requirements. If they should be held applicable, we have no choice except to discontinue the service because we cannot do it.

Mr. LEHMAN. Florida is the only one that's brought suit so far?

Mr. CLAYTOR. It's the only one that's actually gone to trial. I believe Nevada has initiated an administrative action against Amtrak under the Clean Water Act and we filed suit in Federal court there for declaratory judgment that that is not applicable, but no action has been taken on any of that.

Mr. LEHMAN. Do you anticipate any more?

Mr. CLAYTOR. Well, there's one pending in Oregon, and it's still in administrative appeal, and several other states have complained but no one else has started a litigation. This is a problem that ought to be fixed, and we think it can be fixed. But it can't be fixed overnight. It's got to be fixed on a gradual basis. Otherwise, we can't stay in business. There's just no way.

WASTE RETENTION STUDY

Mr. LEHMAN. Mr. Carmichael, last year the Congress earmarked $500,000 in FRA funds for a study of toilet and waste retention technologies, in the hopes of helping solve this problem. What is the status of that study, and when will it be completed? Can you share any preliminary results at this time?

[The information follows:]

FRA has hired a consultant to help us with the study. The consultant has selected team members that will work on the report and has met with Amtrak officials to discuss the railroad's progress. The study is underway and although our time frame is short, we expect to meet the August 21, 1990 date requested by the Congress. We ~~do not have~~ any preliminary results at this time.

HIGH SPEED RAIL AND MAGLEV STUDIES

Mr. LEHMAN. Mr. Claytor, both FRA and the Army Corps of Engineers have budgeted funds to study the technical and economic potential of high speed rail and magnetic levitation. Given its experience, it would seem Amtrak could offer a unique and vital perspective for the potential of those systems. What role has Amtrak been asked to play, and is it sufficient, in your view?

Mr. CLAYTOR. Amtrak is extremely eager to play an active role in the development and operation of high speed rail and magnetic levitation transportation in this country. Our role can be to operate the high speed systems, maintain the equipment and rights-of-way, market and sell tickets, provide interconnections between Amtrak and high-speed rail systems, and related matters.

We are currently working jointly with the Florida High Speed Rail Corporation, which is mostly owned by Asea, Brown, Bavari, to obtain the contract for the high speed rail franchise between Miami, Orlando and Tampa. We are also meeting with groups that are attempting to create a magnetic levitation system between Los Angeles and Las Vegas, and Orlando Airport and International Center. There are other potential opportunities for that in Dallas, Houston, and the mid-west.

We are interested in being right in the middle of this.

Mr. LEHMAN. You want to be a player.

Mr. CLAYTOR. Yes, sir. We want to be a player. We think we're qualified to be a player.

Mr. LEHMAN. Mr. Carmichael?

Mr. CARMICHAEL. Mr. Chairman, I'd like to make a real quick comment on it. Several of these projects that FRA has helped fund the feasibility studies that are now at the stage of becoming realities have all talked about using Amtrak as maybe the operating entity for those projects.

Another point I made this morning I'd like to make again is, that all the European systems that I've seen are developing city terminals. City terminal means all the surface transportation systems intersect there, somewhat like our Union Station does now. And these city terminals or the Maglev projects that are being considered here in the United States, Amtrak is one of the major pieces feeding into it, the Maglev system or the high speed steel.

In Frankfurt this past week, I was talking to—you get off the train in the basement of the airport and go right upstairs. The airport manager in Frankfurt said he was begging for three more rail lines into the basement because he's got so much congestion.

Mr. LEHMAN. I've been to the Frankfurt Airport, they have everything in one place.

Mr. CARMICHAEL. That's right. So the city terminals and this maglev and Amtrak have some sort of common destiny, and we're going to try to identify that as quickly as possible.

Mr. LEHMAN. Last year, Mr. Claytor, you said the following concerning Maglev: "I do not believe there is any chance of Maglev being a factor in the next 25 years in (the NEC) . . . and I think we are premature to fool with Maglev on anything like one of our major corridors". This implies that there is some significant risk in the implementation of Maglev technology. How high is that risk, and in which areas of technology?

[The information follows:]

I am impressed with the potential for high-speed rail systems, including those based on magnetic levitation, in various transportation corridors in this country. Amtrak wants very much to play a role in the development and operation of new high-speed systems and are working closely with a number of transportation authorities and corporations in this area.

Nonetheless, the infrastructure costs associated with magnetic levitation systems are enormous—estimates range from $15 million to $40 million per mile—and clearly will require a significant federal investment in infrastructure. The systems themselves, however, may be able to cover their operating costs.

ELDERLY AND DISABLED ACCESS STUDY

Mr. LEHMAN. Last year, Mr. Carmichael, Congress earmarked $400,000 in FRA funds for Amtrak to study ways to improve access for the elderly and disabled persons. Congress earmarks funds all the time in report language for studies. Why is this case different—does FRA need additional legal authority to conduct that study with Amtrak, and if so, why? Is there anything that prevents you from working under contract to Amtrak for that study?

Mr. CARMICHAEL. My answer officially is that FRA cannot award a grant to Amtrak because the R&D appropriation has only contract authority. I might let Mr. Lindsey make a specific comment.

Mr. LINDSEY. I don't really have anything to add to that.

Mr. CARMICHAEL. We just don't have the authority to make a grant. We have contract authority.

Mr. LEHMAN. Could you award a contract for a study?

Mr. LINDSEY. We do have to do that on a competitive basis, unless we can find an independent justification for a sole source and we're not aware of any justification that would meet the legal requirements here for a sole source.

Mr. LEHMAN. Mr. Carmichael, for the record please provide suggested legislative language to execute that study, if such language is absolutely necessary.

[The information follows:]

Additional language for use in an FY 1990 supplemental appropriations bill or other appropriate legislation:

For necessary expenses for railroad research and development, $9,600,000, to remain available until expended, *of which up to $400,000 shall be made available for a grant to the National Railroad Passenger Corporation to undertake research to improve access for individuals with disabilities and elderly persons to rail passenger cars from station platforms.*

Additional language for use in the FY 1991 appropriations bill:

For necessary expenses for railroad research and development, $16,984,000, to remain available until expended: *Provided, That up to $400,000 of the funds made available in fiscal year 1990 which remain unobligated shall be made available for a grant to the National Railroad Passenger Corporation to undertake research to improve access for individuals with disabilities and elderly persons to rail passenger cars from station platforms.*

WASHINGTON UNION STATION

Mr. LEHMAN. Mr. Claytor, can you update us briefly on your activities involving Union Station, including the revenue situation?

Mr. CLAYTOR. Yes, sir.

Mr. LEHMAN. And what is your favorite restaurant there?

Mr. CLAYTOR. I like them all.

Mr. HAYWARD. As we reported before, Mr. Lehman, the station and the parking garage were completed a year and a half ago. The first year of operations surprised even the most optimistic forecasters. The parking garage today is running I would say chock-a-block, where many people cannot find a place to park in the parking garage at mid-morning.

The developer of the station has surpassed revenue expectations. Although the contract which the USRC has with the developer gave him several years to get up to speed on making share payments of his revenue, it is our expectation that he has earned full coverage and will make in the next month a full annual payment to USRC.

Our forecast, for instance, right now shows for 1990 that we will get $1 million in base rents from the commercial activity; the parking garage will provide us $1.3 million; participation rent from the commercial will give us another $926,000. When we net the expenses of running USRC, that's the administrative organization out, there will be $1.8 million net cash.

U.S.R.C. has a contractual agreement with several parties on the disposition of that revenue. The first call on that $1.8 million is for satisfying financial obligations of USRC. In the first year, 1990, it would appear that all of that cash flow will be required to cover financial obligations. The second position in cash flow from USRC is an annual $1,419,000 payable to the Government to satisfy payments on a mortgage on the property. That condition is cumulative, if the company is not able to satisfy that demand in one year, it is payable then as soon as there is a cash excess in the corporation. But from an overall commercial point of view, the activity is going very, very handsomely. There is the minor complication of cash flow in the early years.

Mr. LEHMAN. Thank you very much. That concludes the general questions. We'll come back and do the justifications. Mr. Carmichael, we can let you have some free time now and we'll see you around.

Mr. CARMICHAEL. Thank you, sir. I appreciate it very much.

[Whereupon, the subcommittee recessed.]

ANNUAL REPORT ON ROUTE SYSTEMS

Mr. COUGHLIN. The Subcommittee will reconvene. We are moving on to justifications. Under route data, last year your report to the Congress on Amtrak's annual basic route system review was not available in time to be printed in our hearing record. Therefore, this year please provide for the record copies of that report for the past two fiscal years.

[The information follows:]

A copy of the Criteria Performance Report is attached.

1990 CRITERIA PERFORMANCE REVIEW OF AMTRAK'S ROUTES

Introduction

This review has been conducted to comply with Section 404(c) of the Rail Passenger Service Act (the "Act"). Amtrak is required to conduct an annual review of each route in the basic system to determine which routes are projected to meet the criteria applicable to that service in the current fiscal year. Currently, the sole criterion is the short-term avoidable loss per passenger mile (STAL/PM), adjusted for inflation from the base year of legislation. For FY90, Amtrak's long-distance routes must achieve a STAL/PM of less than 12.8 cents. Short-distance services must achieve a STAL/PM of less than 16.8 cents. In FY90, all routes but one are forecasted to pass their respective loss per passenger mile criterion. The Chicago-Valparaiso Calumet has a projected STAL of 17.5 cents for FY90. The Calumet is a 403(d) commuter train with short trip lengths and a declining ridership. If its financial performance does not improve, we may be forced to discontinue the train.

Amtrak annually evaluates the market potential and cost of providing service over each route. If Amtrak determines, on the basis of such a review that a route will not meet the loss per passenger mile standard, the Corporation is authorized to discontinue or modify the operation over the route in order to meet the criterion.

Amtrak's route-by-route projections for fiscal year 1990 follows a brief Economic and Market overview.

Economic and Market Overview

Amtrak's marketplace success this past year is due to a number of factors. First, the economic environment was much healthier than originally forecasted. Although most economic growth rates were lower for 1989 than for 1988, fears of an economic recession slowly faded and the nation experienced what's been described as a "soft landing." Competitive conditions this past year were relatively favorable, as they were the prior year. Although airlines continued to offer highly discounted airfares, they were more selective and controlled.

The favorable economic and competitive climate offered an excellent environment for Amtrak's marketing programs and strategies. Chief among those was phase one of the Yield Management Program, implemented in March 1989. This system provides Amtrak increased control and flexibility to manage demand through capacity controlled pricing and contributed significantly to a healthy growth in yield.

Fiscal year 1989 saw Amtrak set new records for revenues and passenger miles, improve the on-time performance of its trains while at the same time reduce its need for federal operating support to the lowest level (in constant dollars) since 1974. In FY89 more intercity and commuter passengers traveled longer distances over Amtrak's route system than ever before.

Operating revenues reached $1.27 billion during FY89, an increase of 15% or $162 million over FY88's record level. The revenue-to-expense ratio also reached a new high of .72, three points above last year. Total expenses increased $177 million to $1,934 million, an increase of 10% over the previous year.

Intercity passengers traveled 5.86 billion miles in FY89, up 181 million miles from last year, posting another all-time record. Total ridership rose to 38.8 million passengers, mainly due to an increase of 2 million passengers on Amtrak's contract commuter services. Amtrak intercity ridership leveled off at 21.4 million in FY89 due to deliberate efforts by Amtrak to boost revenues and passenger miles on reserved trains, and due to the lack of equipment to increase various trains' capacities. These revenue and passenger mile increases are a considerable achievement given that the size of Amtrak's long distance fleet has essentially remained the same since 1982. Clearly the growth in passenger miles is the result of better and more efficient utilization of equipment and growing demand from the traveling public for rail passenger service.

Route Review

Amtrak's route system is divided into five major groups: Northeast Corridor (NEC) services; state-supported services operated under Section 403(b) of the Act; short-distance services; commuter services operated under Section 403(d) of the Act; and long-distance services. Following are the results of Amtrak's review of routes in each of the five major route groups.

Northeast Corridor. Amtrak's Northeast corridor (NEC), consisting of a main trunk and three branches, extends from Washington, DC, to Boston, MA, with the heaviest service density between Washington and New York. The branches extend from New Haven, CT, to Springfield, MA; and from Philadelphia west to Harrisburg, PA and east to Atlantic City, NJ. In general, services over these lines are highly successful and all are expected to pass easily the route performance criterion of 16.8 cents loss per passenger mile for short-distance services in FY90. In fact many of Amtrak's NEC services post a substantial short term profit per PM.

The NEC generated a 15% increase in revenue in FY89 and for the second consecutive year Amtrak carried more passengers between New York and Washington than either the Pan Am or the Trump Shuttle. Ridership on Metroliner Service grew 8.5% over last year. In response three new Express Metroliners were added in October of 1989 between these cities. After a slow start in May of 1989, Atlantic City Service is expected to improve greatly with the advent of planned service changes. Included in the changes are extensions of the service to north to New Haven, CT and south to Richmond, VA. Extending service to these longer-distance markets is expected to tap additional revenues. In addition, certain Philadelphia-Atlantic City frequencies will originate at Philadelphia International Airport as part of an interline service program with Midway Airlines.

Actual results for FY89 and FY90 forecasts are shown as follows:

	1989 Actual Short-Term Avoidable Profit (Loss) per PM	1990 Projected Short-Term Avoidable Profit (Loss) per PM
Metroliner Service	20.3¢	21.5¢
NEC Conventionals	9.2	10.1
Atlantic City	(21.6)	(7.1)
New York-Philadelphia	0.9	3.8
Philadelphia-Harrisburg	(9.0)	(7.4)

State-Supported Services. Under Section 403(b) of the Act, state and local governments may contract for service not included in the basic system by agreeing to share with Amtrak the service's operating losses and capital costs. While these routes are not subject to basic system route performance criteria, Amtrak works very closely with the participating states to ensure that adequate levels of service are provided in the most cost-effective manner possible. In FY89, all 403(b) services met the loss per passenger mile criterion and are projected to do so again in FY90. Amtrak currently contracts with eight states (Alabama, California, Illinois, Michigan, Missouri, New York, Pennsylvania and Wisconsin) to provide rail passenger service over 13 routes in the Amtrak system.

New state supported services were started in late October 1989 between Chicago, IL and Milwaukee, WI and between the NEC, Birmingham and Mobile, AL. In December of 1989 a third San Joaquin train between Bakersfield and Oakland/San Francisco, CA was added. On May 12, 1990 a new 403(b) service between the NEC, Rocky Mount, Raleigh and Charlotte, NC will begin. Discussions continue on adding a second 403(b) frequency between San Diego and Santa Barbara, CA in 1991.

Actual results for FY89 and FY90 forecasts are shown as follows:

	1989 Actual Short-Term Avoidable Profit (Loss) per PM	1990 Projected Short-Term Avoidable Profit (Loss) per PM
*Philadelphia-Harrisburg	(9.7)¢	(8.3)¢
*Chicago-Springfield, IL	(0.4)	(0.7)
*Chicago-Milwaukee	---	1.1
*Chicago-Carbondale, IL	(1.8)	(1.9)
Chicago-Quincy, IL	(0.7)	(0.8)
*Los Angeles-San Diego	2.4	4.1
San Francisco/Oakland-Bakersfield	(0.8)	(0.6)
(New York)-Albany-Montreal	(0.4)	(0.3)
Chicago-Port Huron-(Toronto)	(0.3)	0.8
(New York)-Birmingham-Mobile	---	1.3**
Kansas City-St. Louis	(1.9)	(3.7)
*Philadelphia-Pittsburgh-(New York)	4.0	3.9
Chicago-Grand Rapids	(0.6)	(0.3)

*** Statistics reflect the results of only the state-supported trains on these routes. Amtrak basic system frequencies also operate between these cities. State payments received for these services are included as revenue.**

**** Recent actual operating experience indicates this forecast may be optimistic.**

Short-Distance Services. Under Section 404(b) of the Act, as amended, short-distance services may not lose more than 16.8 cents in FY90. In FY89, all short-distance trains easily met this criterion and are projected to do so again in FY90. The Empire Corridor (New York - Niagara Falls) is forecast to achieve a short term avoidable profit in FY90.

Following are the actual performance statistics for basic system short-distance routes for FY89, as well as the projected performance for FY90:

	1989 Actual Short-Term Avoidable Profit (Loss) per PM	1990 Projected Short-Term Avoidable Profit (Loss) per PM
New York-Niagara Falls	4.4¢	5.7¢
Chicago-St. Louis	(9.0)	(10.1)
Chicago-Milwaukee	(6.0)	(3.8)
Chicago-Detroit-Toledo	(8.2)	(7.7)
Los Angeles-San Diego	0.6	(1.0)*
Portland-Seattle	(7.6)	(6.3)
Chicago-Indianapolis	(11.3)	(10.7)

* Recent operating experience indicates the actual performance may improve over that forecast.

Commuter Services. Amtrak currently is required to operate four commuter services pursuant to Section 403(d) of the Act. The Act formerly obligated these trains to attain a PM/TM (passenger mile per train mile) of 80, but set no specific loss per passenger mile. That was revised by the 1986 legislation, which replaced the former PM/TM standard with the short-distance loss per passenger mile criterion of 16.8 cents, the same as short-distance routes. New York-Philadelphia and New York-Harrisburg will again, as they have regularly in the past, post short-term avoidable profits. The financial performance of Philadelphia-Harrisburg should improve dramatically as M.U. Capitoliners are replaced with much more efficient equipment. By contrast, Chicago-Valparaiso-Calumet is projected to fail the STAL/PM criterion for FY90. The Calumet is penalized by a commuter-oriented schedule which has many short trip lengths and poor equipment utilization. New Horizon Fleet equipment has been placed in service in an effort to attract ridership.

	1989 Actual Short-Term Avoidable Profit (Loss) per PM	1990 Projected Short-Term Avoidable Profit (Loss) per PM
New York-Philadelphia	4.6¢	3.1¢
Philadelphia-Harrisburg	(16.8)	(3.3)
New York-Harrisburg	7.5	6.3
Chicago-Valparaiso	(17.5)	(17.5)

Long-Distance Services. Under Section 404(d) of the Act, as amended, long-distance routes may not lose more than 12.8 cents per passenger mile in fiscal year 1990. Every long-distance route easily met this standard in FY89 and is projected to do so again in FY90.

The Montrealer was restored in July of 1989 operating via New London, CT. Hopefully the train will be able to return to its original route via Springfield, MA if track work can be completed between East Northfield and Springfield, MA. The Chicago-San Antonio/Houston Texas Eagle was upgraded from tri-weekly to daily service in January of 1990 with tri-weekly through service to Los Angeles via the Sunset Limited.

In July of 1990 both the Broadway and Capitol Limiteds are scheduled to be rerouted west of Pittsburgh. The Broadway will be rerouted Pittsburgh-Youngstown-Gary-Chicago. The Capitol will be rerouted Pittsburgh-Alliance-Cleveland-Chicago. The changes are expected to produce operating improvements and savings.

Current and projected performance statistics for long-distance services are as follows:

	1989 Actual Short-Term Avoidable Profit (Loss) per PM	1990 Projected Short-Term Avoidable Profit (Loss) per PM
Washington-Montreal	(2.9)¢	(7.1)¢
New-York-Florida (Silver Star)	0.6	1.3
New York-Florida (Silver Meteor)	1.3	1.9
New York-Philadelphia-Chicago (Broadway Ltd.)	(0.4)	(0.3)
Washington-Pittsburgh-Chicago (Capitol Ltd.)	(2.5)	(2.2)
Chicago-Washington-New York (Cardinal)	(6.8)	(6.8)
Chicago-Seattle/Portland	(2.1)	(1.8)
Chicago-Oakland/San Francisco	(0.8)	0.3
(Chicago)-Salt Lake-Los Angeles	0.4	1.0
(Chicago)-Salt Lake-Seattle	(3.6)	(3.1)
Chicago-Los Angeles	(0.2)	1.3
Chicago-New Orleans	(3.3)	(2.9)
Chicago-San Antonio-(Los Angeles)	(2.5)	(3.2)
New Orleans-San Antonio-(Los Angeles)	(3.9)	(3.9)
Los Angeles-Seattle	0.2	1.1
Chicago-New York/Boston	1.0	2.3

Boston-Newport News	5.0	5.1
New York-Jacksonville	1.5	2.1
New York-New Orleans	(0.6)	(0.6)
(Kansas City)/St. Louis-Centralia/(New Orleans)	(6.6)	(7.4)
Auto Train	7.2	8.6

As Amtrak vigorously pursues its Corporate goal of operating self-sufficiency, the combination of sophisticated revenue yield management and modern cost containment practices is moving more and more of Amtrak's long distance services to a breakeven position, both on a short-term and long-term avoidable basis. In FY90, for example, the following Amtrak long distance services will breakeven on a short-term avoidable cost basis:

Silver Star (New York-Florida)
Silver Meteor (New York-Florida)
California Zephyr (Chicago-Oakland/San Francisco)
Southwest Chief (Chicago-Los Angeles)
Desert Wind ((Chicago)-Salt Lake City-Los Angeles)
Coast Starlight (Los Angeles-Seattle)
Lake Shore Limited (Chicago-New York/Boston)
Colonial (Boston-Newport News)
Palmetto (New York-Jacksonville)
Auto Train (Lorton,VA-Sanford,FL)

Analysis of the Three Poorest Performing Short-Distance Routes

\ The FY90 forecast of the three poorest performing short-distance routes based on the short-term loss per passenger mile criterion are: Chicago-Indianapolis (10.7); Chicago-St.Louis (10.1) and Chicago-Detroit-Toledo at (7.7).

The Hoosier State is forecast to perform better in FY90 (10.7) then it did in FY89 (11.3). Operating one daily round trip the Hoosier State complements the tri-weekly Cardinal's operation between Chicago and Indianapolis. FY89 revenues were up 6% over FY88 while passenger miles were down 1.5% producing a 6% increase in yield for the route. For the first three months of FY90 revenues and passenger miles are up 3% and 7% respectively.

In addition to the $7 return fare program which has helped to boost the passenger miles for the route, the schedule has been lengthened 20 minutes to improve on time performance. Like many of the trains serving the Midwest, the Hoosier State suffers from the deteriorating track conditions. Lengthening the schedule improves the on time performance for the service but often compares unfavorably with competing drive times between the cities.

Service between Chicago and St. Louis has suffered from the bankruptcy of the Chicago, Missouri & Western, the resultant poor track conditions, and the necessary slower scheduled times. Consequently the projected loss per passenger mile is expected to worsen from (9.0 cents) in FY89 to (10.1 cents) in FY90.

The Chicago-St. Louis route has recently been purchased by the Southern Pacific which has committed over $30 million to improve track conditions between St. Louis to Joliet, Illinois. Although better running times are expected in the future, the track rehabilitation program will cause delays and lengthened schedules for the next three years.

The statistical performance of this route is also tarnished by a very lightly traveled early morning segment from St. Louis to Springfield of a train which is 403(b) funded only between Springfield and Chicago. Discounted airfares between the Chicago and St. Louis endpoints have also eroded ridership and revenues. This route will continue to suffer until the track work can be completed.

The Chicago-Detroit-Toledo loss per passenger mile is forecast to improve slightly to (7.7) in FY90 from (8.2) in FY89. Two factors have contributed to the improvement. First, the state of Michigan is in the process of completing over $14 million in capital improvements along this route including installing or improving passing sidings and upgrading many grade crossings. Second, during 1989 Amtrak offered a special "Horizon" discount fare that helped boost ridership 4% and passenger miles 6% in FY89 and which has been continued into 1990. During the first quarter of FY90 revenues and passenger miles are up 9% and 15% respectively.

Analysis of the Three Poorest Performing Long-Distance Routes

The three poorest performing long-distance trains based on the short-term loss per passenger mile forecast for FY90 are the Kansas City-St. Louis-Centralia-New Orleans River Cities (7.4 cents); Washington-Montreal Montrealer (7.1 cents) and the Chicago-Washington-New York Cardinal at (6.8 cents).

The River Cities has suffered greatly from the poor condition of the track of the Illinois Central. These deteriorated track conditions have greatly compromised the train's schedule reliability, resulting in an 8% drop in passengers and 10% drop in passenger miles for FY89. Further, the IC is currently seeking to abandon the line between Memphis, TN and Jackson, MS, offering Amtrak the alternate route along the Tallahatchie and Yazoo districts that would add two and one half hours to the current schedule. Given the impending track situation and the prevalence of discounted air fares, the FY90 loss per passenger mile is expected to increase to (7.4) from FY89's (6.6) level.

On April 1, 1990 the schedule was again lengthened to provide more realistic, albeit less attractive, schedules for our passengers. The poor reliability of the River Cities has been a contributing factor to the declining ridership in the cities it serves. Unless an attractive, reliable schedule can be re-established, it will be difficult to win back those passengers.

The Montrealer loss per passenger mile projection for FY90 is (7.1 cents). Service was restored on July 1, 1989, making FY90 the first full year of operation since the Montrealer was suspended in May 1987. At that time ridership and revenues were declining due to poor on time performance caused by deteriorating track conditions north of Springfield, MA. Currently the Montrealer is operating via a more circuitous New London, CT-Brattleboro, VT routing, missing the important markets of Hartford and Springfield. When Montrealer service can be restored to these cities, and the schedule reduced as a result of a more direct route, the Montrealer's revenue performance should improve.

The Cardinal's loss per passenger mile in FY90 is projected to be (6.8 cents), the same as FY89. Last year's original forecast was for the Cardinal achieve a (9.2 cents) loss for FY89, but the actual results were much better. FY89 saw a 9% increase in passenger miles coupled with a 16% increase in revenues for the Cardinal. The economy slumbercoach, added in 1988 continues to bolster the Cardinal's earnings and financial performance. For the first quarter of FY90 passenger miles and revenues gained 8% and 11% respectively over the fourth quarter of FY89.

To further improve the Cardinal, a new local markets strategy was implemented April 1, 1990. Historically the Cardinal has achieved its peak ridership west of Washington, DC. Through the NEC it has been treated as a reserved, long distance train with no local travel permitted; consequently the train often runs with many empty seats between New York and Washington. In order to increase the train's revenue performance, local passengers will be carried on the NEC between New York and Washington. Such seats will be made available only the day before or the day of departure to ensure that longer trip length passengers are accommodated first.

ROUTE FINANCIAL PERFORMANCE STATISTICS

Mr. LEHMAN. Please, also update the route financial performance statistics found on pages 338–341 of last year's hearing record by deleting fiscal year 1987 and adding fiscal year 1991.

[The information follows:]

Route financial performance statistics for the years 1988 through 1991 are attached.

FY88 ROUTE STATISTICS

	REVENUE/ COST RATIO(1)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/ (LOSS)/PM(2)
NORTHEAST CORRIDOR			
METROLINER SERVICE	1.67	146	0.165
NEC CONVENTIONALS	1.39	203	0.077
NYC-PHILADELPHIA	0.90	120	0.016
PHILADELPHIA-HARRISBURG	0.48	74	(0.094)
TOTAL NEC	1.44	183	0.092
SHORT DISTANCE			
NYC-NIAGARA FALLS	0.83	138	0.029
CHICAGO-ST. LOUIS	0.63	75	(0.037)
CHICAGO-MILWAUKEE	0.60	87	(0.053)
CHICAGO-DET-TOLEDO	0.52	87	(0.068)
L.A.-SAN DIEGO	0.85	173	0.005
PORTLAND-SEATTLE	0.50	87	(0.0[illegible]4)
CHICAGO-INDIANAPOLIS	0.47	75	(0.096)
TOTAL SHORT DISTANCE	0.73	117	(0.004)
403B			
PHILA-HARRISBURG	0.61	32	(0.137)
CHICAGO-SPRINGFIELD	0.74	71	(0.006)
CHICAGO-CARBONDALE	0.75	83	(0.015)
CHICAGO-QUINCY	0.78	76	(0.010)
L.A.-SAN DIEGO	0.96	180	0.022
OAKLAND-BAKERSFIELD	0.93	125	0.023
ALBANY-MONTREAL	0.92	159	0.015
CHICAGO-PORT HURON-(TOR)	0.85	82	0.004
KANSAS CITY-ST. LOUIS	0.78	70	(0.012)
PHIL-PITTSBURGH-(NYC)	0.99	112	0.031
CHICAGO-GRAND RAPIDS	0.85	78	0.003
TOTAL 403B	0.87	105	0.010
403D			
NYC-PHILADELPHIA	1.18	411	0.042
PHILA-HARRISBURG	0.46	80	(0.103)
NYC-HARRISBURG	1.33	248	0.067
CHICAGO-VALPARAISO	0.36	170	(0.123)
TOTAL 403D	1.09	302	0.035
LONG DISTANCE			
NYP-FLA. (SILVER STAR)	0.70	252	(0.008)
CHICAGO-NYC/WASH (BROADWAY/CAPITAL LTD.)	0.65	151	(0.021)
CHICAGO-WASH-NYC (CARDINAL)	0.48	131	(0.077)
NYP-FLA. (SILVER METEOR)	0.77	316	0.001
CHICAGO-SEA/PORTLAND (EMPIRE BUILDER)	0.63	169	(0.025)
CHICAGO-SLC-OAKLAND (CALIFORNIA ZEPHYR) (3)	0.74	202	(0.008)
(CHI)-SLC-LOS ANGELES (DESERT WIND) (3)	0.84	202	0.005
CHICAGO-NEW ORLEANS (CITY OF NEW ORLEANS)	0.63	163	(0.018)
CHICAGO-SAN ANTONIO-(LA) (EAGLE) (4)	0.64	267	(0.020)
NEW ORLEANS-SAS-LOS ANGELES (SUNSET LIMITED) (4)	0.54	267	(0.046)
LOS ANGELES-SEATTLE (COAST STARLIGHT)	0.78	329	(0.004)
CHICAGO-NYC/BOSTON (LAKESHORE LIMITED)	0.80	218	0.008
BOSTON-NEWPORT NEWS (COLONIAL/VIRGINIAN)	1.12	288	0.032
NEW YORK-SAVANNAH (PALMETTO)	0.79	173	0.000
(CHI)-SLC-SEATTLE (PIONEER) (3)	0.54	202	(0.040)
NEW YORK-NEW ORLEANS (CRESCENT)	0.65	204	(0.015)
(KCY)-STL-CDL-(NOL) (RIVER CITIES)	0.41	104	(0.067)
CHICAGO-LOS ANGELES (SOUTHWEST CHIEF)	0.73	185	(0.003)
AUTO TRAIN	1.10	295	0.075
TOTAL LONG DISTANCE	0.73	217	(0.006)
ROUTE TOTAL	0.90	189	0.019

(1) THE RATIO OF ROUTE REVENUE (INCLUDING STATE PAYMENTS FOR 403(B) ROUTES) TO LONG-TERM AVOIDABLE COSTS.

(2) EQUALS SHORT-TERM AVOIDABLE PROFIT/(LOSS) DIVIDED BY INCREMENTAL PASSENGER MILES. SHORT-TERM AVOIDABLE PROFIT/(LOSS) EQUALS ROUTE REVENUE MINUS SHORT-TERM AVOIDABLE COSTS.

(3) COMBINED PM/TM SHOWN FOR CHICAGO-SLC-OAKLAND, (CHI)-SLC-LOS ANGELES AND (CHI)-SLC-SEATTLE ROUTES.

(4) COMBINED PM/TM SHOWN FOR CHICAGO-SAN ANTONIO-(LA) AND NEW ORLEANS-SAS-LOS ANGELES ROUTES.

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FY89 ROUTE STATISTICS

	REVENUE/ COST RATIO(1)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/ (LOSS)/PM(2)
NORTHEAST CORRIDOR			
METROLINER SERVICE	1.81	145	0.203
NEC CONVENTIONALS	1.37	196	0.092
ATLANTIC CITY	0.33	69	(0.216)
NYC-PHILADELPHIA	0.78	98	0.009
PHILADELPHIA-HARRISBURG	0.48	69	(0.090)
TOTAL NEC	1.48	175	0.113
SHORT DISTANCE			
NYC-NIAGARA FALLS	0.98	130	0.044
CHICAGO-ST. LOUIS	0.44	60	(0.090)
CHICAGO-MILWAUKEE	0.55	87	(0.060)
CHICAGO-DET-TOLEDO	0.44	93	(0.082)
L.A.-SAN DIEGO	0.82	176	0.006
PORTLAND-SEATTLE	0.49	93	(0.076)
CHICAGO-INDIANAPOLIS	0.44	74	(0.113)
TOTAL SHORT DISTANCE	0.76	113	(0.002)
403B			
PHILA-HARRISBURG	0.61	32	(0.097)
CHICAGO-SPRINGFIELD	0.75	64	(0.004)
CHICAGO-CARBONDALE	0.67	79	(0.018)
CHICAGO-QUINCY	0.76	75	(0.007)
L.A.-SAN DIEGO	0.92	160	0.024
OAKLAND-BAKERSFIELD	0.77	130	(0.008)
ALBANY-MONTREAL	0.78	148	(0.004)
CHICAGO-PORT HURON-(TOR)	0.78	76	(0.003)
KANSAS CITY-ST. LOUIS	0.73	65	(0.019)
PHIL-PITTSBURGH-(NYC)	1.00	128	0.040
CHICAGO-GRAND RAPIDS	0.77	76	(0.006)
TOTAL 403B	0.81	104	0.004
403D			
NYC-PHILADELPHIA	1.05	412	0.046
PHILA-HARRISBURG	0.33	76	(0.168)
NYC-HARRISBURG	1.32	234	0.075
CHICAGO-VALPARAISO	0.26	150	(0.175)
TOTAL 403D	0.97	298	0.037
LONG DISTANCE			
WASH-MONTREAL (MONTREALER)	0.66	202	(0.029)
NYP-FLA: (SILVER STAR)	0.78	267	0.006
CHICAGO-PGH-NYC (BROADWAY LTD.)	0.71	168	(0.004)
CHICAGO-WASH-NYC (CARDINAL)	0.50	140	(0.068)
NYP-FLA: (SILVER METEOR)	0.84	324	0.013
CHICAGO-SEA/PORTLAND (EMPIRE BUILDER)	0.64	175	(0.021)
CHICAGO-PGH-WASH (CAPITOL LIMITED)	0.64	153	(0.025)
CHICAGO-SLC-OAKLAND (CALIFORNIA ZEPHYR) (3)	0.72	211	(0.008)
(CHI)-SLC-LOS ANGELES (DESERT WIND) (3)	0.72	195	(0.002)
CHICAGO-NEW ORLEANS (CITY OF NEW ORLEANS)	0.56	160	(0.033)
CHICAGO-TEXAS-(LA) (EAGLE) (4)	0.61	262	(0.025)
NEW ORLEANS-SAS-LOS ANGELES (SUNSET LIMITED) (4)	0.55	262	(0.039)
LOS ANGELES-SEATTLE (COAST STARLIGHT)	0.80	322	0.002
CHICAGO-NYC/BOSTON (LAKESHORE LIMITED)	0.79	227	0.010
BOSTON-NEWPORT NEWS (COLONIAL/VIRGINIAN)	1.25	338	0.050
NEW YORK-JACKSONVILLE (PALMETTO)	0.85	179	0.015
(CHI)-SLC-SEATTLE (PIONEER) (3)	0.55	211	(0.036)
NEW YORK-NEW ORLEANS (CRESCENT)	0.71	214	(0.006)
(KCY)-STL-CDL-(NOL) (RIVER CITIES)	0.43	90	(0.066)
CHICAGO-LOS ANGELES (SOUTHWEST CHIEF)	0.79	211	0.004
AUTO TRAIN	1.14	319	0.072
TOTAL LONG DISTANCE	0.74	224	(0.002)
ROUTE TOTAL	0.91	189	0.026

(1) THE RATIO OF ROUTE REVENUE (INCLUDING STATE PAYMENTS FOR 403(B) ROUTES) TO LONG-TERM AVOIDABLE COSTS.

(2) EQUALS SHORT-TERM AVOIDABLE PROFIT/(LOSS) DIVIDED BY INCREMENTAL PASSENGER MILES. SHORT-TERM AVOIDABLE PROFIT/(LOSS) EQUALS ROUTE REVENUE MINUS SHORT-TERM AVOIDABLE COSTS.

(3) COMBINED PM/TM SHOWN FOR CHICAGO-SLC-OAKLAND, (CHI)-SLC-LOS ANGELES, AND (CHI)-SLC-SEATTLE ROUTES.

(4) COMBINED PM/TM SHOWN FOR CHICAGO-SAN ANTONIO-(LA) AND NEW ORLEANS-SAS-LOS ANGELES ROUTES.

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FY90 ROUTE STATISTICS

NORTHEAST CORRIDOR	REVENUE/ COST RATIO(1)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/ (LOSS)/PM(2)
METROLINER SERVICE	1.84	138	0.215
NEC CONVENTIONALS	1.45	191	0.101
ATLANTIC CITY	0.53	111	(0.071)
NYC-PHILADELPHIA	0.90	87	0.038
PHILADELPHIA-HARRISBURG	0.51	63	(0.074)
TOTAL NEC	1.48	167	0.118
SHORT DISTANCE			
NYC-NIAGARA FALLS	1.03	128	0.057
CHICAGO-ST. LOUIS	0.44	55	(0.101)
CHICAGO-MILWAUKEE	0.65	88	(0.038)
CHICAGO-DET-TOLEDO	0.46	92	(0.077)
L.A.-SAN DIEGO	0.77	157	(0.010)
PORTLAND-SEATTLE	0.53	94	(0.063)
CHICAGO-INDIANAPOLIS	0.45	73	(0.107)
TOTAL SHORT DISTANCE	0.79	110	0.005
403B			
PHILA-HARRISBURG	0.64	23	(0.083)
CHICAGO-SPRINGFIELD	0.75	64	(0.007)
CHICAGO-MILWAUKEE	0.88	47	0.011
CHICAGO-CARBONDALE	0.68	75	(0.019)
CHICAGO-QUINCY	0.77	75	(0.008)
L.A.-SAN DIEGO	1.05	180	0.041
OAKLAND-BAKERSFIELD	0.80	116	(0.006)
ALBANY-MONTREAL	0.71	106	(0.003)
CHICAGO-PORT HURON-(TOR)	0.83	75	0.008
BIRMINGHAM-MOBILE	0.84	28	0.013
KANSAS CITY-ST. LOUIS	0.70	61	(0.037)
PHIL-PITTSBURGH-(NYC)	1.01	128	0.039
CHICAGO-GRAND RAPIDS	0.81	75	(0.003)
TOTAL 403B	0.84	84	0.009
403D			
NYC-PHILADELPHIA	0.94	382	0.031
PHILA-HARRISBURG	0.62	71	(0.033)
NYC-HARRISBURG	1.17	208	0.063
CHICAGO-VALPARAISO	0.28	167	(0.175)
TOTAL 403D	0.92	274	0.027
LONG DISTANCE			
WASH-MONTREAL (MONTREALER)	0.50	181	(0.071)
NYP-FLA: (SILVER STAR)	0.84	288	0.013
CHICAGO-PGH-NYC (BROADWAY LTD.)	0.75	170	(0.003)
CHICAGO-WASH-NYC (CARDINAL)	0.52	141	(0.068)
NYP-FLA: (SILVER METEOR)	0.89	339	0.019
CHICAGO-SEA/PORTLAND (EMPIRE BUILDER)	0.67	172	(0.018)
CHICAGO-PGH-WASH (CAPITOL LIMITED)	0.67	153	(0.022)
CHICAGO-SLC-OAKLAND (CALIFORNIA ZEPHYR) (3)	0.80	210	0.003
(CHI)-SLC-LOS ANGELES (DESERT WIND) (3)	0.84	199	0.013
CHICAGO-NEW ORLEANS (CITY OF NEW ORLEANS)	0.60	158	(0.029)
CHICAGO-TEXAS-(LA) (EAGLE) (4)	0.60	217	(0.032)
NEW ORLEANS-SAS-LOS ANGELES (SUNSET LIMITED) (4)	0.57	217	(0.039)
LOS ANGELES-SEATTLE (COAST STARLIGHT)	0.87	323	0.011
CHICAGO-NYC/BOSTON (LAKESHORE LIMITED)	0.87	235	0.023
BOSTON-NEWPORT NEWS (COLONIAL/VIRGINIAN)	1.21	312	0.051
NEW YORK-JACKSONVILLE (PALMETTO)	0.91	172	0.021
(CHI)-SLC-SEATTLE (PIONEER) (3)	0.58	210	(0.031)
NEW YORK-NEW ORLEANS (CRESCENT)	0.72	219	(0.006)
(KCY)-STL-CDL-(NOL) (RIVER CITIES)	0.44	83	(0.074)
CHICAGO-LOS ANGELES (SOUTHWEST CHIEF)	0.83	210	0.010
AUTO TRAIN	1.18	321	0.086
TOTAL LONG DISTANCE	0.78	223	0.004
ROUTE TOTAL	0.95	181	0.032

(1) THE RATIO OF ROUTE REVENUE (INCLUDING STATE PAYMENTS FOR 403(B) ROUTES) TO LONG-TERM AVOIDABLE COSTS

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(3) COMBINED PM/TM SHOWN FOR CHICAGO-SLC-OAKLAND, (CHI)-SLC-LOS ANGELES, AND (CHI)-SLC-SEATTLE ROUTES.

(4) COMBINED PM/TM SHOWN FOR CHICAGO-SAN ANTONIO-(LA) AND NEW ORLEANS-SAS-LOS ANGELES ROUTES

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FY91 ROUTE STATISTICS

	REVENUE/ COST RATIO(1)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/ (LOSS)/PM(2)
NORTHEAST CORRIDOR			
METROLINER SERVICE	1.87	140	0.232
NEC CONVENTIONALS	1.49	194	0.112
ATLANTIC CITY	0.60	128	(0.045)
NYC-PHILADELPHIA	0.92	88	0.045
PHILADELPHIA-HARRISBURG	0.67	76	(0.026)
TOTAL NEC	1.51	170	0.129
SHORT DISTANCE			
NYC-NIAGARA FALLS	1.08	144	0.063
CHICAGO-ST. LOUIS	0.47	57	(0.094)
CHICAGO-MILWAUKEE	0.67	89	(0.035)
CHICAGO-DET-TOLEDO	0.47	93	(0.076)
L.A.-SAN DIEGO	0.88	182	0.015
PORTLAND-SEATTLE	0.55	95	(0.061)
CHICAGO-INDIANAPOLIS	0.47	74	(0.107)
TOTAL SHORT DISTANCE	0.85	122	0.017
403B			
PHILA-HARRISBURG	0.65	24	(0.078)
CHICAGO-SPRINGFIELD	0.77	65	(0.001)
CHICAGO-MILWAUKEE	0.92	44	0.022
CHICAGO-CARBONDALE	0.70	76	(0.014)
CHICAGO-QUINCY	0.79	76	(0.003)
L.A.-SAN DIEGO	0.94	157	0.028
OAKLAND-BAKERSFIELD	0.83	97	0.002
ALBANY-MONTREAL	0.73	108	0.004
CHICAGO-PORT HURON-(TOR)	0.86	76	0.014
ROCKY MOUNT-CHARLOTTE	0.95	113	0.021
BIRMINGHAM-MOBILE	0.83	26	0.011
KANSAS CITY-ST. LOUIS	0.72	61	(0.032)
(NYC)-PHIL-PITTSBURGH-(CLEV)	1.06	134	0.047
CHICAGO-GRAND RAPIDS	0.83	76	0.004
TOTAL 403B	0.85	82	0.012
403D			
NYC-PHILADELPHIA	0.97	387	0.036
PHILA-HARRISBURG	0.64	72	(0.030)
NYC-HARRISBURG	1.20	211	0.071
CHICAGO-VALPARAISO	0.28	169	(0.177)
TOTAL 403D	0.95	278	0.033
LONG DISTANCE			
WASH-MONTREAL (MONTREALER)	0.51	184	(0.070)
NYP-FLA: (SILVER STAR)	0.87	297	0.018
CHICAGO-PGH-NYC (BROADWAY LTD.)	0.81	182	0.009
CHICAGO-WASH-NYC (CARDINAL)	0.53	143	(0.067)
NYP-FLA: (SILVER METEOR)	0.92	346	0.024
CHICAGO-SEA/PORTLAND (EMPIRE BUILDER)	0.70	174	(0.013)
CHICAGO-PGH-WASH (CAPITOL LIMITED)	0.73	165	(0.008)
CHICAGO-SLC-OAKLAND (CALIFORNIA ZEPHYR) (3)	0.84	212	0.011
(CHI)-SLC-LOS ANGELES (DESERT WIND) (3)	0.89	201	0.022
CHICAGO-NEW ORLEANS (CITY OF NEW ORLEANS)	0.62	160	(0.026)
CHICAGO-TEXAS-(LA) (EAGLE) (4)	0.61	210	(0.032)
NEW ORLEANS-SAS-LOS ANGELES (SUNSET LIMITED) (4)	0.58	210	(0.038)
LOS ANGELES-SEATTLE (COAST STARLIGHT)	0.88	327	0.015
CHICAGO-NYC/BOSTON (LAKESHORE LIMITED)	0.90	234	0.031
BOSTON-NEWPORT NEWS (COLONIAL/VIRGINIAN)	1.28	332	0.060
NEW YORK-JACKSONVILLE (PALMETTO)	1.01	204	0.035
(CHI)-SLC-SEATTLE (PIONEER) (3)	0.59	212	(0.030)
NEW YORK-NEW ORLEANS (CRESCENT)	0.73	220	(0.003)
(KCY)-STL-CDL-(NOL) (RIVER CITIES)	0.45	84	(0.074)
CHICAGO-LOS ANGELES (SOUTHWEST CHIEF)	0.85	212	0.012
AUTO TRAIN	1.19	325	0.094
TOTAL LONG DISTANCE	0.82	227	0.009
ROUTE TOTAL	0.98	183	0.039

(1) THE RATIO OF ROUTE REVENUE (INCLUDING STATE PAYMENTS FOR 403(B) ROUTES) TO LONG-TERM AVOIDABLE COSTS.

(2) EQUALS SHORT-TERM AVOIDABLE PROFIT/(LOSS) DIVIDED BY INCREMENTAL PASSENGER MILES. SHORT-TERM AVOIDABLE PROFIT/(LOSS) EQUALS ROUTE REVENUE MINUS SHORT-TERM AVOIDABLE COSTS.

(3) COMBINED PM/TM SHOWN FOR CHICAGO-SLC-OAKLAND, (CHI)-SLC-LOS ANGELES, AND (CHI)-SLC-SEATTLE ROUTES.

(4) COMBINED PM/TM SHOWN FOR CHICAGO-SAN ANTONIO-(LA) AND NEW ORLEANS-SAS-LOS ANGELES ROUTES.

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ROUTE/SERVICE PRIORITIES

Mr. COUGHLIN. In terms of adding new routes or service, Mr. Claytor, what will be your highest priority in the coming year, and why?

Mr. CLAYTOR. Our highest priorities, as previously stated, include converting tri-weekly trains to daily service, since this provides better utilization of the train and engine crews and equipment, allowing passengers greater flexibility in choosing travel dates, and making the trains available for mail.

Second would be expanding capacity of the western long-distance trains by acquiring additional Superliner cars. And finally, adding those new routes and services which do not require additional Federal subsidy and for which equipment is or can be made available.

ROUTE AND SERVICE CHANGES

Mr. COUGHLIN. Please update for the record the information on route and service changes found on pages 343 and 344 of last year's hearing record by adding data for fiscal years 1990 and 1991.

[The information follows:]

The following is a summary of our FY90 and planned FY91 route and service changes.

Effective January 20, 1990, the frequency of Chicago-San Antonio/Houston Texas Eagle service increased from tri-weekly to daily.

A restructuring of Atlantic City service occurred in conjunction with the April, 1990 timetable change. One weekend roundtrip between New York and Atlantic City was discontinued. Two additional weekend roundtrips were added between Washington and Atlantic City. One daily Washington-Atlantic City train was extended to Richmond. All Philadelphia-Atlantic City frequencies later this spring will originate at the Philadelphia International Airport as part of a through service interline program with Midway Airlines.

The New York-Chicago Broadway Limited and Washington-Chicago Capitol Limited are tentatively scheduled to be rerouted in the summer 1990 between Pittsburgh and Chicago. The Broadway Limited would operate over CSX via Youngstown and Akron, Ohio with the Capitol Limited rerouted over Conrail via Alliance, Cleveland, and Toledo to Chicago.

Service on the Westside Connection is tentatively scheduled to begin in April 1991. Amtrak is upgrading ten miles of track to allow direct access into Penn Station. This will permit all Amtrak trains using Grand Central Terminal (the Empire Service, the Lake Shore Limited, and the Adirondack) to be consolidated at Penn Station. This action will also allow direct connections between these trains and the Northeast Corridor, NJ Transit, and Long Island Railroad trains.

Effective October 29, 1989, the 403(b) Gulf Breeze and 403(b) Hiawatha Service were initiated. The Gulf Breeze is a leg of the New York-New Orleans Crescent between Birmingham and Mobile, financially supported by the State of Alabama. Illinois and Wisconsin are sharing the costs of the two daily Chicago-Milwaukee 403(b) Hiawatha Service round trips.

A third 403(b) state-supported San Joaquin between San Francisco/Oakland and Bakersfield began December 17, 1989 with new Horizon Fleet equipment purchased by the State of California.

The New York-Charlotte Carolinian, will begin operation on May 12, 1990. The train will operate as a 403(b) Rocky Mount-Charlotte extension of the New York-Jacksonville Palmetto.

California has proposed that one existing San Diegan be extended to santa Barbara as a second 403(b) train between Los Angeles and Santa Barbara in FY91. Amtrak has not yet agreed to operate this service. The principal problem is locomotive availability. Additionally, a ninth (weekend only) roundtrip is being considered for FY91 implementation between Los Angeles and San Diego as a basic system train, using the same equipment as the second Santa Barbara train.

STATE-ASSISTED ROUTE DATA

Mr. COUGHLIN. Please provide for the record data on section 403(b) and 403(d) service for fiscal years 1990 and 1991 similar to what appears on pages 346 and 347 of last year's hearing record.

[The information follows:]

The data for section 408(b) and 403(d) for fiscal years 1990 and 1991 is attached.

AMTRAK 403(b) AND 403(d) SERVICES—FISCAL YEAR 1990 FORECAST

	Actual State contribution [1]	Actual Amtrak contribution [2]	PM/TM	Revenue/cost ratio [3]	Short-term avoidable profit/(loss)/PM
403(b):					
Philadelphia-Harrisburg	462	392	23	0.64	(0.083)
Chicago-Springfield	765	1,003	64	.75	(.007)
Chicago-Milwaukee [4]	194	135	47	.88	.011
Chicago-Carbondale [5]	175	1,332	75	.68	(.019)
Chicago-Quincy	715	847	75	.77	(.008)
Los Angeles-San Diego	1,119	(675)	180	1.05	.041
Oakland-Bakersfield [6]	3,788	3,947	116	.80	(.006)
Albany-Montreal	680	1,576	106	.71	(.003)
Chicago-Port Huron-(TOR)	527	660	75	.83	.008
Birmingham-Mobile [7]	344	702	28	.84	.013
Kansas City-St Louis	2,177	2,265	61	.70	(.037)
Pittsburgh-Philadelphia-(NYC)	288	(38)	128	1.01	.039
Chicago-Grand Rapids	555	524	75	.81	(.003)
Total 403(b)	11,789	12,670	84	.84	.009
403(d):					
New York-Philadelphia		646	382	.94	.031
Philadelphia-Harrisburg		319	71	.62	(.033)
New York-Harrisburg		590	208	1.17	.063
Chicago-Valparaiso		959	167	.28	(.175)
Total 403(d)		1,334	274	.92	.027

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[1] Projected state contribution is based on 45 percent of short-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost.

[2] Equals route revenue (including state contribution for 403(b) routes) minus long-term avoidable cost.

[3] The ratio of route revenue (including state contribution for 403(b) routes) to long-term avoidable cost.

[4] Projected state contribution is based on 45 percent of long-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost. Service added October 29, 1989.

[5] Shown is the impact of Chicago-Carbondale service although it is subsidized by the State of Illinois between Chicago and Champaign.

[6] 3rd frequency added December 17, 1989

[7] Projected state contribution is based on 45 percent of long-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost. Service added October 29, 1989.

AMTRAK 403(b) AND 403(d) SERVICES—FISCAL YEAR 1990 FORECAST

	Actual State contribution [1]	Actual Amtrak contribution [2]	PM/TM	Revenue/cost ratio [3]	Short-term avoidable profit/(loss)/PM
403(b):					
Philadelphia-Harrisburg	487	398	24	0.65	(0.078)
Chicago-Springfield	832	959	65	77	(.001)
Chicago-Milwaukee [4]	317	100	44	.92	.022
Chicago-Carbondale [5]	200	1,303	76	.70	(.014)
Chicago-Quincy	772	801	76	.79	(.003)
Los Angeles-San Diego	1,698	977	157	.94	.028
Oakland-Bakersfield [6]	4,936	3,725	97	.83	.002
Albany-Montreal	748	1,524	108	.73	.004
Chicago-Port Huron-(TOR)	568	598	76	.86	.014
Rocky Mount-Charlotte [7]	1,514	217	113	.95	.021

AMTRAK 403(b) AND 403(d) SERVICES—FISCAL YEAR 1990 FORECAST—Continued

	Actual State contribution [1]	Actual Amtrak contribution [2]	PM/TM	Revenue/cost ratio [3]	Short-term avoidable profit/(loss)/PM
Birmingham-Mobile [8]	520	867	26	.83	.011
Kansas City-St Louis	2,323	2,230	61	.72	(.032)
Pittsburgh-Philadelphia-(NYC)	320	(501)	134	1.06	.047
Chicago-Grand Rapids	601	482	76	.83	.004
Total 403(b)	15,836	13,680	82	.85	.012
403(d):					
New York-Philadelphia		370	387	.97	.036
Philadelphia-Harrisburg		318	72	.64	(.030)
New York-Harrisburg		(726)	211	1.20	.071
Chicago-Valparaiso		991	169	.28	(.177)
Total 403(d)		953	278	.95	.033

[1] Projected state contribution is based on 45 percent of short-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost.

[2] Equals route revenue (including state contribution for 403(b) routes) minus long-term avoidable cost.

[3] The ratio of route revenue (including state contribution for 403(b) routes) to long-term avoidable cost.

[4] Projected state contribution is based on 45 percent of long-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost. Service added October 29, 1989.

[5] Shown is the impact of Chicago-Carbondale service although it is subsidized by the State of Illinois between Chicago and Champaign.

[6] 3rd frequency added December 17, 1989.

[7] Includes full year of Rocky Mount-Charlotte service.

[8] Projected state contribution is based on 45 percent of long-term avoidable loss in first year, 65 percent the second and subsequent years, plus 50 percent of the associated equipment capital cost. Service added October 29, 1989.

REVENUE TO COST RATIO IMPROVEMENTS

Mr. COUGHLIN. Mr. Claytor you are forecasting another increase in revenue-to-cost ratio in fiscal year 1991, after several years of strong growth. Is there a point at which these increases will begin to level out—are you reaching the point of diminishing returns?

Mr. CLAYTOR. You want to answer that question?

Mr. NORMAN. Mr. Coughlin, we have had very strong growth and we believe that we can continue it. Unfortunately, it gets tougher every year because now we are moving asyntopically to the way the curve is going. But it is still our expectation that if we can continue to make the productivity improvements that we want we can continue to improve our revenue-to-cost ratio.

FARE ELASTICITY

Mr. COUGHLIN. I have brought up in past years the question of the discretionary service that you have on some of your longer routes which are quite full. There might be more elasticity in being able to increase fares than there would be in the more competitive routes that are non-discretionary routes. Are your fares as high as you feel you can have them? I know, Mr. Claytor, you said that you price your fares to maximize your revenue. Do you think you could increase fares on those discretionary routes and still have full trains?

Mr. NORMAN. Mr. Coughlin, I think of all the comments that we deal with, the one of what we can do with our fares is the one that is probably most contentious. The one thing I would like to say unequivocally is that 100 percent of the individuals will disagree with whatever we come up with. One part is going to say it's too high, others too low, so we try to keep both in balance.

But in our particular case, we feel that we look at this issue all the time, we look at the elasticity, we move them up and down and we do tests and we come to the conclusion that nothing is perfect in this environment but that we are extracting as much as we can, and that is one of the advantages of yield management, because on any given train we will have a series of fares at which at any given time individuals will be paying.

We're continuing to refine that with automation now, but we are confident that in order to maximize the highest revenues from the trains, our fares are just about at the right level and the growth tends to show that.

REVENUE-TO-COST RATIOS

Mr. COUGHLIN. Please provide for the record data on your revenue-to-cost performance similar to what appears on pages 348 and 349 of last year's hearing record.

[The information follows:]

REVENUE/COST RATIO 1971 THROUGH CURRENT YEAR BUDGET

[Adjusted to current accounting method; in millions of dollars]

Year	Expense	Expense excluded	Net expense	Revenue	Ratio
Calendar year:					
1971	192.5	(0.1)	192.4	100.9	0.52
1972	310.1	(3.2)	306.9	162.6	.53
Transition period 1973 (Jan–Jun)	168.0	(2.2)	165.8	89.2	.54
Fiscal year:					
1974	438.2	(16.3)	421.9	240.1	.57
1975	559.8	(32.3)	527.5	246.4	.47
1976	674.3	(42.8)	631.5	268.0	.42
1976 (Jul–Sept)	202.5	(16.3)	186.2	79.4	.43
1977	945.3	(76.0)	869.3	415.5	.48
1978	1,010.6	(82.7)	927.9	433.3	.47
1979	1,113.2	(90.5)	1,022.7	496.3	.49
1980	1,275.7	(113.4)	1,162.3	558.8	.48
1981	1,442.5	(162.8)	1,279.7	612.2	.48
1982	1,401.4	(215.2)	1,186.2	630.7	.53
1983	1,469.4	(238.5)	1,230.9	664.4	.54
1984	1,522.1	(163.1)	1,359.0	758.8	.56
1985	1,600.1	(169.8)	1,430.3	825.8	.58
1986	1,563.6	(168.4)	1,395.2	861.4	.62
1987	1,672.0	(166.5)	1,505.5	973.5	.65
1988	1,757.1	(159.7)	1,597.4	1,106.7	.69
1989	1,934.5	(167.8)	1,766.7	1,269.1	.72
1990 budget	2,012.7	(178.9)	1,833.8	1,371.7	.75
1991 estimate	2,116.0	(182.8)	1,933.2	1,500.0	.78

Mr. COUGLIN. Can you also provide some details on the revenue-to-cost performance of other passenger railroads around the world?

[The information follows:]

There is no reliable source that provides consistent comparable financial data on Amtrak's foreign counterparts. Among the primary problems with data consistency are the practice of providing combined statistics covering intercity passengers, regional commuter and freight service, the occasional practice of treating government subsidy as revenue, the omission of certain infrastructure costs which may be covered by other branches of government, and variation in the treatment of depreciation expense.

Therefore, none of the following financial statistics is precisely comparable to Amtrak's "revenue-to-cost ratio." They do provide an indication, however, of Amtrak's generally superior financial performance compared to railways of other industrialized countries. Our 1989 actual reached 72 percent; our 1990 target is 75 percent.

[In percent]

	1985	Estimate	
		1986	1987
British Rail	71	74	82
S N C F (France)	61	61	63
DB (West Germany)	60	59	60
JNR (Japan)	59	(1)	(1)
VIA (Canada—pax only)	28	32	30

[1] Not available.

RIDERSHIP AND REVENUE DATA

Mr. COUGHLIN. Please provide information on passenger miles, revenue, and ridership similar to what appears on page 351 of last year's hearing record. Please add 1990 columns.

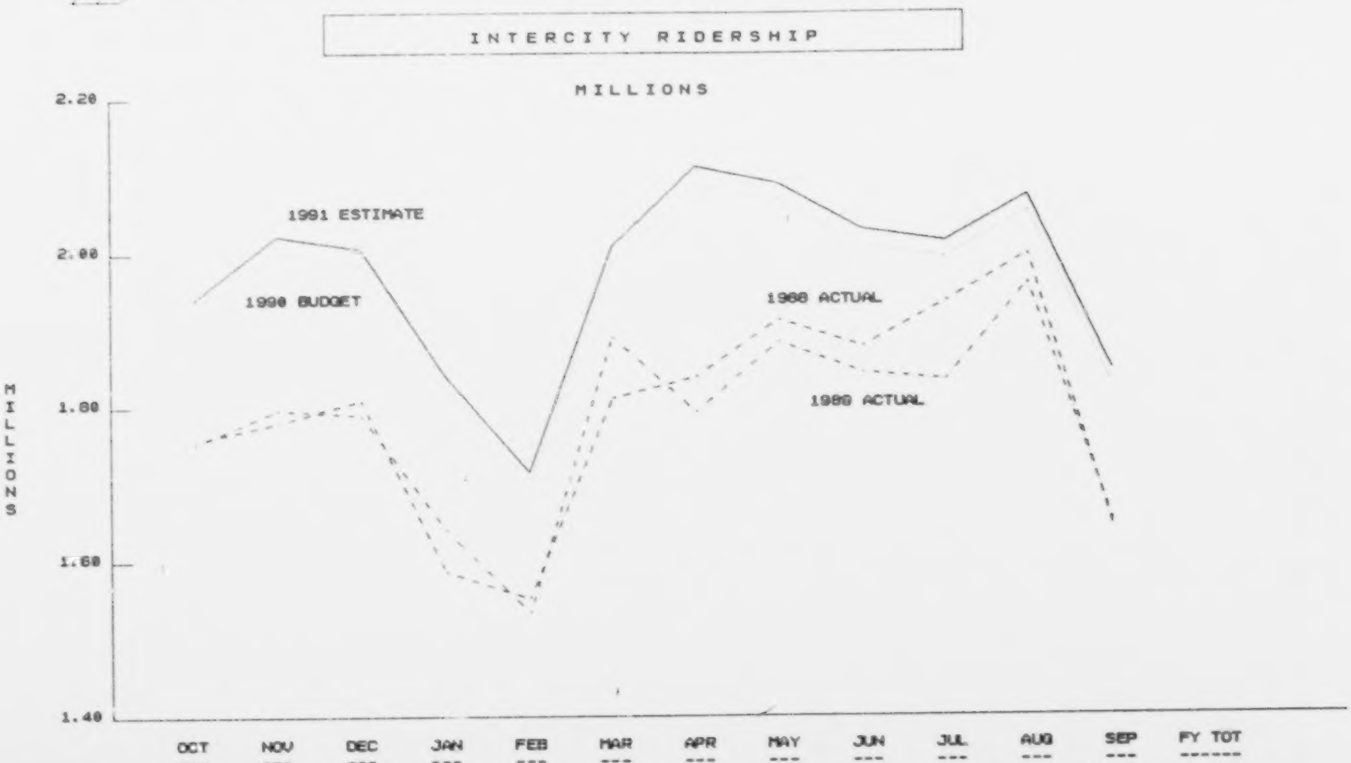
[The information follows:]

Period	Passenger miles (millions)	Intercity ridership (millions)	Revenue (millions)	Percent change from prior year		
				Passenger miles	Ridership	Revenue
Calendar year:						
1971 May-December	1,779	10.6	$100.9			
1972	2,978	16.6	162.6	67.4	56.6	61.1
Fiscal year:						
1974	4,290	18.4	240.1	44.1	10.8	47.7
1975	3,946	17.3	246.5	−8.0	−6.0	2.7
1976	4,055	17.8	283.0	2.8	2.9	14.8
1977	4,333	19.2	415.4	6.9	7.9	46.8
1978	4,029	18.9	433.3	−7.0	−1.6	4.3
1979	4,915	21.4	496.3	22.0	13.2	14.5
1980	4,582	21.2	558.8	−6.8	−.9	12.6
1981	4,762	20.6	612.2	3.9	−2.8	9.6
1982	4,172	19.0	630.7	−12.4	−7.8	3.0
1983	4,246	19.0	664.4	1.8	0	5.3
1984	4,552	19.9	758.8	7.2	4.7	14.2
1985	4,825	20.8	825.8	6.0	4.5	8.8
1986	5,014	20.3	861.4	3.9	−2.4	4.3
1987	5,221	20.4	973.5	4.1	.5	13.0
1988	5,678	21.5	1,106.7	8.8	5.4	13.7
1989	5,859	21.3	1,269.1	3.2	−.9	14.7
1990 estimate	6,247	23.5	1,371.7	6.6	10.3	8.1
1991 projection	6,510	23.7	1,500.0	4.2	.9	9.4

RIDERSHIP TRENDS

Mr. COUGHLIN. Please also update the ridership graph appearing on page 353 of last year's hearing record by adding a line for fiscal year 1991.

[The information follows:]



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	FY TOT
FY88 ACTUAL	1.756	1.780	1.808	1.586	1.551	1.811	1.838	1.913	1.878	1.936	1.997	1.643	21.497
FY89 ACTUAL	1.752	1.796	1.789	1.641	1.533	1.891	1.791	1.884	1.843	1.833	1.960	1.651	21.364
FY90 BUDGET	1.922	2.003	1.987	1.823	1.698	1.988	2.090	2.069	2.010	1.994	2.054	1.828	23.466
FY91 ESTIMATE	1.941	2.023	2.006	1.841	1.715	2.008	2.111	2.090	2.038	2.014	2.074	1.847	23.708

PERFORMANCE MEASURES

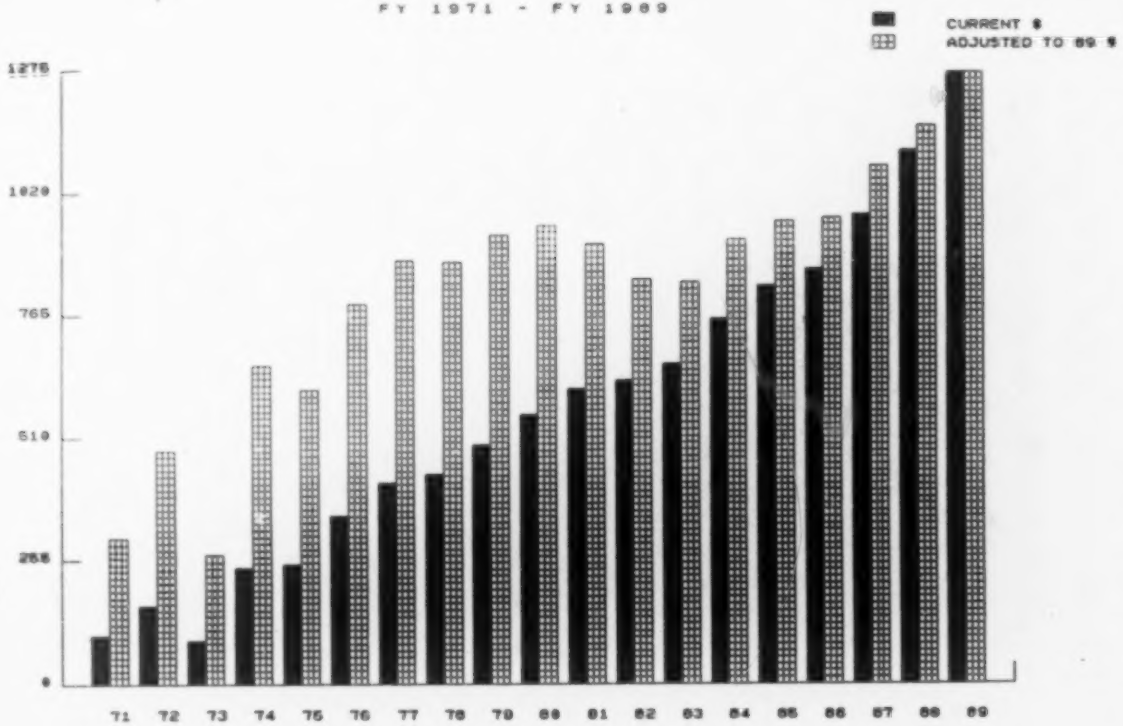
Mr. COUGHLIN. Please also provide for the record updated bar charts and supporting data on Amtrak performance measures appearing on pages 355–357 of last year's hearing record.

[The information follows:]

AMTRAK

REVENUE

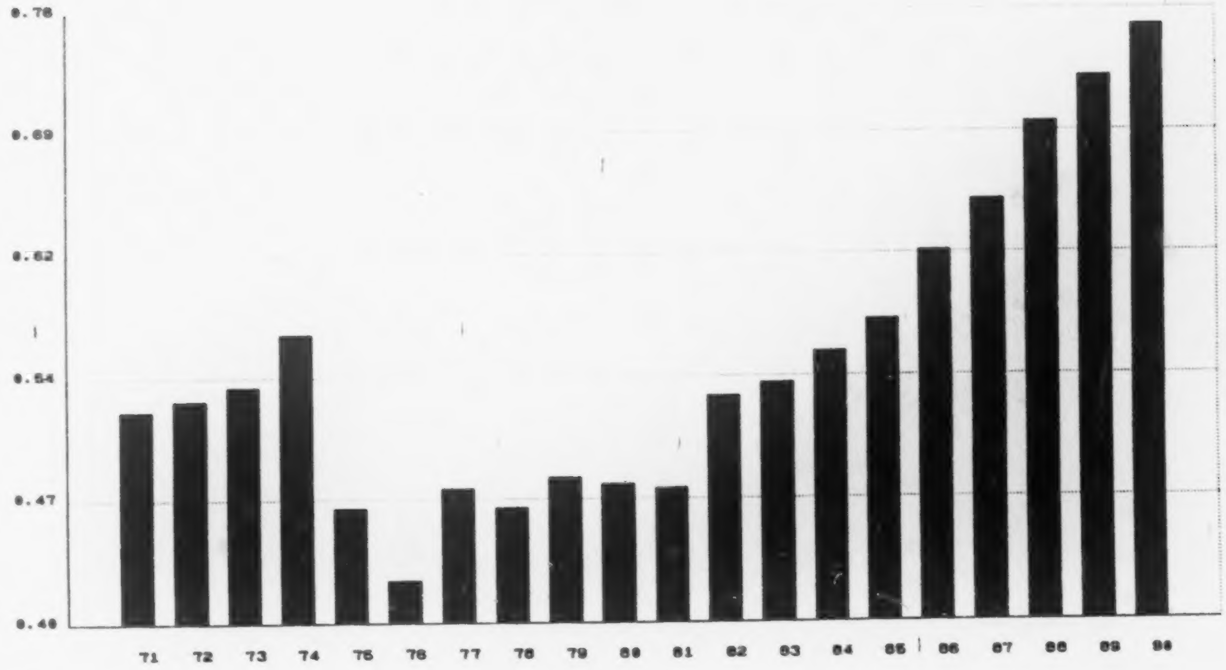
FY 1971 - FY 1989



NOTE -- FY73 IS 6 MONTH TRANSITION PERIOD (JAN-JUN)
-- FY76 INCLUDES TRANSITION QUARTER

AMTRAK
JANUARY 1990

AMTRAK
REVENUE COST RATIO
FY 1971 - FY 1990



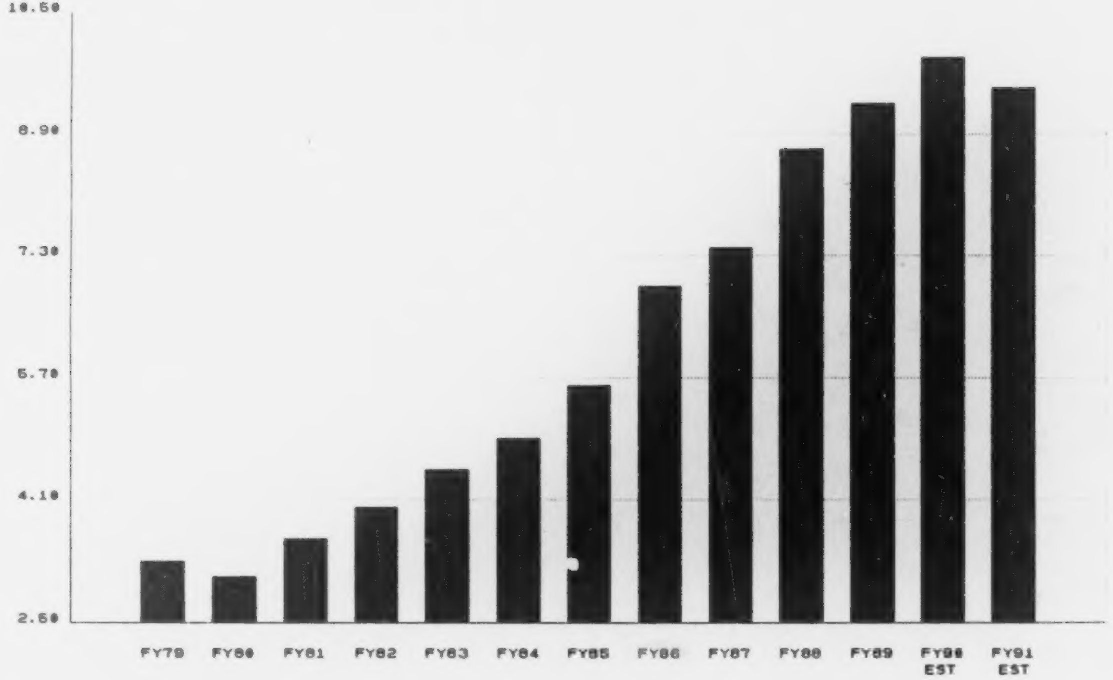
NOTE -- FY73 IS 6 MONTH TRANSITION PERIOD (JAN-JUN)
-- FY76 INCLUDES TRANSITION QUARTER

AMTRAK
JANUARY 1990

AMTRAK

PASSENGER MILES PER FEDERAL SUPPORT $

FY 1979 - FY 1991



NOTE -- FEDERAL SUPPORT IN CONSTANT 1991 DOLLARS

AMTRAK
JANUARY 1990

FEDERAL FUNDING HISTORY

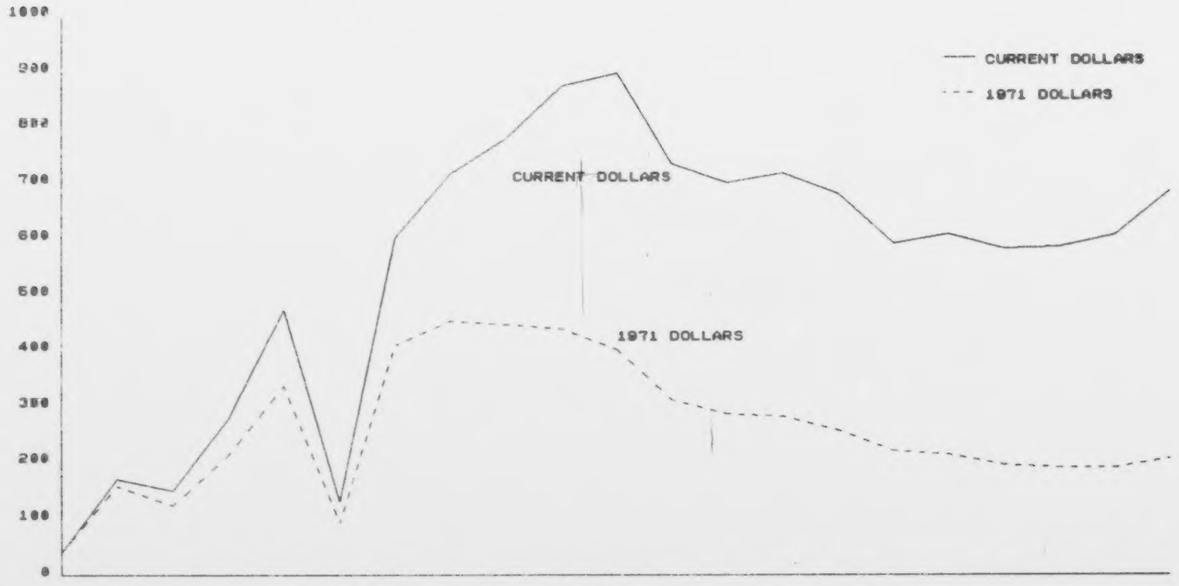
Mr. COUGHLIN. Please update for the record the Federal funding history graph shown on page 359 of last year's hearing record.

[The information follows:]

AMTRAK

TOTAL FEDERAL GRANT

FY 1971 - FY 1991



	71/2	73	74	75	76	TQ	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91*
CURRENT $	40	170	149	277	471	130	601	716	779	873	896	735	700	716	680	591	607	581	584	605	684
1971 $	40	157	124	211	336	93	408	462	446	437	401	310	286	280	257	220	213	196	190	190	206

* FY 1991 REQUEST

DATE PREPARED: 03/29/90

APPROPRIATIONS HISTORY

Mr. **Coughlin**. Please also update for the record the funding table which appears on page 361 of last year's hearing record.

[The information follows:]

AMTRAK APPROPRIATIONS HISTORY

[In millions of dollars]

	Block grant	Operating	Capital	Loan payoff	NEC purchase	Labor prot.
Fiscal year:						
1971–72		40.0				
1973		170.0				
1974		146.6	2.5			
1975		276.5				
1976		357.0	114.2			
Transition Quarter [1]		105.0	25.0			
1977		482.6	93.1		25.0	
1978		536.0	130.0	25.0	25.0	
1979		600.0	130.0	25.0	24.0	
1980		650.4	191.0		12.0	20.0
1981		720.2	187.1			−11.0
1982	735.0					
1983	670.0		[2] 30.0			
1984	716.4					
1985 [3]	680.0					
1986	590.7					
1987	602.0		[4] 5.0			
1988	580.8					
1989	584.0					
1990		521.1	83.6			
1991 request	684.0					
Total	5,842.9	4,605.4	991.5	50.0	86.0	9.0

[1] Transition Quarter from July 1976-September 1976 when Federal Government changed fiscal year to current October to September time frame.

[2] Includes $5 million for the Cape Cod project turned over to the State of Mass.

[3] Has been reduced to reflect legislative reprogramming of Bush River Bridge.

[4] Supplemental appropriations for reinstatement of Montrealer.

OPERATING EXPENSE INCREASES

Mr. **Coughlin**. Your budget for fiscal year 1991 assumes a 1 percent increase in operating expenses compared to 1990. How can you manage such a small increase when passenger miles travelled are projected to increase?

Mr. **Hayward**. The key to this, Mr. Coughlin, is that that is a constant dollar comparison. The way we present our budget is to present the column for 1991 in 1990 dollars, then we add at the bottom an allowance for what we believe to be inflation. The amount that you speak to, $26.7 million, reflects the very tight control that we maintain on costs in our organization.

Essentially, this $26.7 million covers the annualization of a train in the Midwest that we ran three days a week to seven days a week, the addition of a 403(b) train in North Carolina, and a forecast in the last half of the year that we will be going operational on the West Side Connection in New York.

CREW EFFICIENCY SAVINGS

Mr. COUGHLIN. Your justification speaks of productivity savings resulting from more efficient scheduling of operating crews. Please explain these new procedures and how much was saved?

Mr. HAYWARD. This essentially is a result of more sophistication in the scheduling of our crews such that we will reduce overtime. Additionally, during the year, we are forecasting that we will reroute two of our principal East Coast to Chicago trains, getting a more economical use of our crews on the Capital Limited and the Broadway Limited.

ARCANE WORK RULES

Mr. COUGHLIN. Your statement speaks of "arcane work rules that characterize so many aspects of Amtrak's non-operational areas". What type of work rules are you referring to, and how much do they cost Amtrak annually?

Mr. CLAYTOR. An example of this is at our Beech Grove maintenance facility where we have overhead travelling cranes. We employ 15 electricians to operate those overhead travelling cranes for other workers. Other work is rarely assigned to the electricians when they're not operating those cranes, so that that's all they do. If we change this so that the cranes were operated by the workers themselves, which is done generally in the more efficient plants—where the worker can control the crane right from where he is—we would save about $450,000 a year. We can't do this only because of the labor rules.

Another operation is where we have to remove the mechanism that operates our automatic doors on Superliner cars. When the cars are in for overhaul and what-not, you have to take those doors off and rework them all. Removal from a Superliner requires a carman to unbolt the door, an electrician to remove the electrical leads, a pipe fitter to disconnect the air pipes because these are partially air operated, and a machinist to remove the mechanism. And then when you work all the parts over and reinstall the door, you do exactly the same with four people in reverse.

Now, what ought to be done is that all of that work ought to be done by one man who is qualified to do all of those things, and not have four men do it. And I haven't got an exact figure for what that costs, but it costs a lot because so much wasted time is made while you call one man in to do one thing and another man in to do the next thing and another man—and when he's not doing that, he's waiting around to be ordered to do something else.

So this is just plain inefficiency. They are typical examples of what we need to do when I say we need to improve the work rules in our non-operating areas.

Mr. COUGHLIN. Please expand on your answer for the record, including examples of such rules.

[The information follows:]

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE SHOPS

TASK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCIES/SAVINGS
Remove water cooler (Heritage/Superliner)	IBEW SMW JCC	Electrician disconnects electrical leads/plugs. Pipefitter disconnects water pipe and drain. Carman unbolts unit and removes.	Excessive manpower assigned with related loss of productivit due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1/2 hour
Remove air conditioning unit (Superliner)	IBEW SMW JCC	Carman removes exterior grill to equipment room. Electrician removes condenser fan guard and wiring/flexible conduit to unit. Pipefitter disconnects drain line. Carman unbolts unit and removes.	Excessive manpower assigned with with loss of productivity due to coordination and waiting time. Present Manhours: 3 (4 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Remove refrigeration condensor/compressor units on Food Service/Dining Cars	IBEW SMW	Pipefitters disconnects freon lines to compressor. Electrician disconnects wiring, unbolts and removes unit. Tasks done 3 times per car.	Excessive manpower assigned with loss of productivity due to coordination and waiting time. Present Manhours: 3 (2 employees) New Manhours: 2 (1 employee) Savings per car: 1 hour
Remove water heater (Superliner)	SMW JCC IBEW	Repeat task above for removal of air conditioning unit. Then electrician disconnects flexible conduit and wiring. Pipefitter disconnects water lines. Carman removes bolts and then unit.	Excessive manpower assigned with loss of productivity due to coordination and waiting time. Present Manhours: 9 (4 employees) New Manhours: 4 (2 employees) Savings per unit: 5 hours

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE SHOPS (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove toilet (electric control model) (Amfleet)	SMW JCC IBEW	Carmen removes fiberglass toilet cover (shroud). Pipefitter disconnects water and drain lines. Electrician disconnects leads. Pipefitter removes toilet.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (1 employee) Savings per unit: 1 hour
Repair electric floor heat (passenger car)	IBEW JCC	Electrician tests/trouble shoots for faults. Carmen removes screws and heat guards. Electrician repairs fault (replace element, for example) and carmen replaces heat guards. Work may range from an isolated panel to all the panels in a car.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 4-16 (2 employees) New Manhours: 2-8 (1 employee) Savings per car: 2-8 hours
Repair 480 volt trainline (passenger car)	IBEW JCC	Carman unbolts expanded metal covers. Electrician tests/troubleshoots and repairs line. Carman applies covers.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 5 (2 employees) New Manhours: 2 (1 employee) Savings per car: 3 hours
Repair freeze damaged piping (minimal) (Heritage)	SMW JCC	Pipefitter troubleshoots for leakage in piping. Carmen removes metal pipe covers. Pipefitter repairs and tests piping. Carmen applies pipe covers.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 16 (2 employees) New Manhours: 8 (1 employee) Savings per car: 8 hours

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Cleaning, oiling testing and stenciling (COT&S) air brakes, including test and repair leaks in brake system	JCC SMW	On direct lines, pipefitter breaks air pipe joint to brake valves. Carmen unbolts and removes valves. Carmen bolts on new valves and connects to air pipe. Pipefitters completes seal. Carmen applies air hose, air and tests. Carmen locates any leaks and pipefitter repair leaks.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 64 (4 employees) New Manhours: 32 (2 employees) Savings per car: 32 hours
Modify Superliner jumpers	IBEW JCC	Electrician removes existing permanent jumpers. Carmen connects 4 openings by cutting/grinding metal to make one large opening. Electrician installs new permanent jumpers. Task done 4 times per.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 20 (2 employees) New Manhours: 16 (1 employee) Savings per car: 4 hours
Operation of Powerhouse	IBEW IBF&O	The powerhouse operates to produce air and steam (winter only) for the shops. Steam is produced from coal fired boilers. Air is produced from electric compressors. Plant is staffed with IBF&O represented employees (Firemen, Oilers and Coal Passers) and IBEW represented Stationary Engineers. The majority of work involves operation of boilers by Firemen and Coal Passers. The only identifiable work for the Stationary Engineers is testing water and adding chemicals to water daily (1.5 hours, first trick) Stationary Engineers also oil compressors, as needed and change over compressors two (2) times per week (5 minutes each time).	Craft jurisdiction requires maintenance of two Stationary Engineers to provide first shift coverage. With automation, power switching has been eliminated and little work remains. The minimal work remaining for such employees is not technical and could be performed by the IBF&O represented employees or maintenance forces in the powerhouse. Savings: 2 positions

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove trucks (2) from car	IBEW JCC SMW	Pipefitter disconnects air hoses. Electrician disconnects ground strap and surveillance cables (ampinol plug). Task repeated on other truck. Carman jacks car up and removes trucks.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 6 (4 employees) New Manhours: 4 (2 employees) Savings per car: 2 hours
Remove blower motor inertia hatch (diesel locomotive)	IBB IAM IBEW SMW	Electrician removes cannon plug. Pipefitter disconnects drain lines. Machinist removes clamps to remove duct. Boilermaker unbolts and removes hatch cover.	Excessive manpower assigned with related loss of productivity due t coordination and waiting time. Present Manhours: 1 1/2 (4 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1 hour
Remove door operator mechanism (Superliner)	IBEW IAM JCC SMW	Carman unbolts door operator mechanism cover. Electrician removes leads. Pipefitter disconnects air pipes. Machinists removes operator mechanism.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 1/2 (4 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1 hour
Install fuel pump (diesel locomotive)	SMW IAM IBEW	Machinists bolts unit in place. Electrician connects leads. Pipefitter connects in and out lines to pump.	Excessive manpower assigned with productivity due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/4 (1 employee) Savings per unit: 3/4 hour

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Install/remove water tank and cover	JCC IBEW SMW	Pipefitter removes fill boxes. Carman removes water tank cover, disconnects water/air lines and heat tape, unbolts and removes tank. Carman bolts on new tank and connects air water lines. Electrician applies heat tape and insulates with alum tape. Carman bolts on tank cover. Pipefitter applies fill boxes and tests system.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 48 (4 employees) New Manhours: 32 (2 employees) Savings per unit: 16 hours
Operation of overhead travelling cranes	IBEW	At Beech Grove, large overhead travelling cranes are operated by IBEW represented crane operators. The majority of the cranes are cab (versus pendant) controlled. With improvements in technology, these cranes can be operated by pendant (hanging) or radio controls by anyone who needs to use the crane for lifting. At other Amtrak facilities, overhead travelling cranes are operated by anyone who needs such in connection with their work. In fact, such is the case in the Wheel Shop at Beech Grove where the 6, 3 ton overhead travelling cranes are operated predominately by machinists in connection with their performance of wheel axle work.	Excessive manpower assigned in an area where employees needing the crane can easily operate it with little additional time required. At all other facilities where travelling cranes are operated, including the wheel shop at Beech Grove, no crane operators are needed or employed. Present Manpower: 15 (crane operators) New Manpower: 0 Savings: 15 positions currently assigned in whole/part
Fabrication of metal parts for rolling stock/facilities	SMW JCC IBB	At Beech Grove, various metal parts/items such as brackets, racks, trim, bars, etc. are manufactured in four main areas by three crafts. The demarcation between crafts is generally determined by gauge and type of of application (building, passenger car or locomotive). Many of the same skills and tools (press brakes, shears, drill presses band saws, grinders, brazing/welding equipment, etc.) are used in the individual operations.	Efficient use of manpower prohibited because of artificial lines of demarcation (gauge and use). Waiting time for parts increases. When assignment of work can not be made to available, as well as nearby forces. The ebb and flow of work can not be equalized because of compartmentalization caused to craft lines. Equipment inventory is also inflated account of craft lines. Savings are estimated to approach 15% of daily manhours presently assigned in fabrication tasks.

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Removal of broken spring from metal rollup building door	IAM SMW IBEW	Electrician disconnects leads to motor. Machinist unbolts side rails and removes end guides, curtain and drum to repair spring.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 18 (4 employees) New Manhours: 16 (3 employees) Savings per unit: 2 hours
Removal of compressor from building central air conditioning unit	IBEW SMW IAM	Electrician disconnects leads from motor portion of unit. Pipefitter drains freon down and disconnects hi/low pressure lines. Machinist unbolts unit and removes.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 12 (4 employees) New Manhours: 4 (2 employess) Savings per unit: 8 hours
Removal of overhead travelling crane motor	IAM IBEW	Electrician disconnects leads from motor and "locks" crane. Machinist unbolts motor, takes brake shoes off and removes motor from carriage.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Removal of motor on axle lathe	IBEW IAM	Electrician disconnects leads from motor. Machinist unbolts motor, breaks coupling and removes motor.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (2 employees) New Manhours: 2 (1 employee) Savings per unit: 1 hour

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove dishwasher (Superliner)	IBEW JCC SMW	Electrician disconnects wiring leads. Pipefitter disconnects water pipe and drain. Carman unbolts brackets and removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/2 (2 employees) Savings per unit: 1/2 hour
Assembly of pair of passenger car trucks	JCC IBEW SMW	Carman assembles basic reconditioned truck parts (frame, bolsters, air brake cylinder, hangers, wheels, etc.) Electrician applies surveillance devices (wheel slip, hot journal and ground) Carman fastens cabling to truck with welded welded clamps. Pipefitter applies air brake piping to truck and air brake cylinder. Carman welds piping to truck	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 64 (4 employees) New Manhours: 48 (2 employees) Savings per pair: 16 hours
Remove electric griddle from Superliner Dining Car	JCC IBEW	Electrician disconnects control wiring. Carman unbolts and removes griddle.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (2 employees) New Manhours: 1/2 (2 employees) Savings per unit: 1/2 hour
Replacement of light switch- Amfleet reading light	IBEW JCC	Carman unbolts luggage restraint bar. Electrician unscrews panel, replaces light switch and screws on panel. Carman puts luggage restraint bar back.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (2 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1/2 hour

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove/recondition lube oil heat exchanger (diesel locomotive)	IAM SMW	Machinist unbolts unit from equipment rack, sets off and unbolts cover. Pipefitter cleans and tests cores, replaces gaskets, fittings and flanges, as needed, and fills with fluid. Machinist bolts on cover. Pipefitter tests unit, mounts on rack and connects piping.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 9 (2 employees) New Manhours: 8 (1 employee) Savings per unit: 1 hours
Removal of air compressor (diesel locomotive)	IAM SMW	Pipefitter disconnects water/air lines. Machinist unbolts base bolts, uncouples main drive, removes dowels and then removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Removal of hydraulic tracer on wheel lathe	IBEW SMW IAM	Electrician removes limit switches. Pipefitter disconnects hydraulic lines. Machinist unbolts tracer and removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 1 (1 employee) Savings per unit: 2 hours
Removal of carriage on an axle lathe	IAM SMW	Machinist unbolts carriage and removes jib guides. Pipefitter disconnects oil lines. Machinist removes carriage.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 6 (4 employees) New Manhours: 4 (2 employees) Savings per unit: 2 hours

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE SHOPS

TASK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCIES/SAVINGS
Remove water cooler (Heritage/Superliner)	IBEW SMW JCC	Electrician disconnects electrical leads/plugs. Pipefitter disconnects water pipe and drain. Carman unbolts unit and removes.	Excessive manpower assigned with related loss of productivit due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1/2 hour
Remove air conditioning unit (Superliner)	IBEW SMW JCC	Carman removes exterior grill to equipment room. Electrician removes condenser fan guard and wiring/flexible conduit to unit. Pipefitter disconnects drain line. Carman unbolts unit and removes.	Excessive manpower assigned with with loss of productivity due to coordination and waiting time. Present Manhours: 3 (4 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Remove refrigeration condensor/compressor units on Food Service/Dining Cars	IBEW SMW	Pipefitters disconnects freon lines to compressor. Electrician disconnects wiring, unbolts and removes unit. Tasks done 3 times per car.	Excessive manpower assigned with loss of productivity due to coordination and waiting time. Present Manhours: 3 (2 employees) New Manhours: 2 (1 employee) Savings per car: 1 hour
Remove water heater (Superliner)	SMW JCC IBEW	Repeat task above for removal of air conditioning unit. Then electrician disconnects flexible conduit and wiring. Pipefitter disconnects water lines. Carman removes bolts and then unit.	Excessive manpower assigned with loss of productivity due to coordination and waiting time. Present Manhours: 9 (4 employees) New Manhours: 4 (2 employees) Savings per unit: 5 hours

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE SHOPS (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove toilet (electric control model) (Amfleet)	SMW JCC IBEW	Carmen removes fiberglass toilet cover (shroud). Pipefitter disconnects water and drain lines. Electrician disconnects leads. Pipefitter removes toilet.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (1 employee) Savings per unit: 1 hour
Repair electric floor heat (passenger car)	IBEW JCC	Electrician tests/trouble shoots for faults. Carmen removes screws and heat guards. Electrician repairs fault (replace element, for example) and carman replaces heat guards. Work may range from an isolated panel to all the panels in a car.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 4-16 (2 employees) New Manhours: 2-8 (1 employee) Savings per car: 2-8 hours
Repair 480 volt trainline (passenger car)	IBEW JCC	Carman unbolts expanded metal covers. Electrician tests/troubleshoots and repairs line. Carman applies covers.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 5 (2 employees) New Manhours: 2 (1 employee) Savings per car: 3 hours
Repair freeze damaged piping (minimal) (Heritage)	SMW JCC	Pipefitter troubleshoots for leakage in piping. Carman removes metal pipe covers. Pipefitter repairs and tests piping. Carman applies pipe covers.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 16 (2 employees) New Manhours: 8 (1 employee) Savings per car: 8 hours

SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Cleaning, oiling testing and stencilling (COT&S) air brakes, including test and repair leaks in brake system	JCC SMW	On direct lines, pipefitter breaks air pipe joint to brake valves. Carmen unbolts and removes valves. Carmen bolts on new valves and connects to air pipe. Pipefitters completes seal. Carmen applies air hose, air and tests. Carmen locates any leaks and pipefitter repair leaks.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 64 (4 employees) New Manhours: 32 (2 employees) Savings per car: 32 hours
Modify Superliner jumpers	IBEW JCC	Electrician removes existing permanent jumpers. Carman connects 4 openings by cutting/grinding metal to make one large opening. Electrician installs new permanent jumpers. Task done 4 times per.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 20 (2 employees) New Manhours: 16 (1 employee) Savings per car: 4 hours
Operation of Powerhouse	IBEW IBF&O	The powerhouse operates to produce air and steam (winter only) for the shops. Steam is produced from coal fired boilers. Air is produced from electric compressors. Plant is staffed with IBF&O represented employees (Firemen, Oilers and Coal Passers) and IBEW represented Stationary Engineers. The majority of work involves operation of boilers by Firemen and Coal Passers. The only identifiable work for the Stationary Engineers is testing water and adding chemicals to water daily (1.5 hours, first trick) Stationary Engineers also oil compressors, as needed and change over compressors two (2) times per week (5 minutes each time).	Craft jurisdiction requires maintenance of two Stationary Engineers to provide first shift coverage. With automation, power switching has been eliminated and little work remains. The minimal work remaining for such employees is not technical and could be performed by the IBF&O represented employees or maintenance forces in the powerhouse. Savings: 2 positions

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove trucks (2) from car	IBEW JCC SMW	Pipefitter disconnects air hoses. Electrician disconnects ground strap and surveillance cables (ampinol plug). Task repeated on other truck. Carman jacks car up and removes trucks.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 6 (4 employees) New Manhours: 4 (2 employees) Savings per car: 2 hours
Remove blower motor inertia hatch (diesel locomotive)	IBB IAM IBEW SMW	Electrician removes cannon plug. Pipefitter disconnects drain lines. Machinist removes clamps to remove duct. Boilermaker unbolts and removes hatch cover.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 1/2 (4 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1 hour
Remove door operator mechanism (Superliner)	IBEW IAM JCC SMW	Carman unbolts door operator mechanism cover. Electrician removes leads. Pipefitter disconnects air pipes. Machinists removes operator mechanism.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 1/2 (4 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1 hour
Install fuel pump (diesel locomotive)	SMW IAM IBEW	Machinists bolts unit in place. Electrician connects leads. Pipefitter connects in and out lines to pump.	Excessive manpower assigned with productivity due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/4 (1 employee) Savings per unit: 3/4 hour

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Install/remove water tank and cover	JCC IBEW SMW	Pipefitter removes fill boxes. Carman removes water tank cover, disconnects water/air lines and heat tape, unbolts and removes tank. Carman bolts on new tank and connects air water lines. Electrician applies heat tape and insulates with alum tape. Carman bolts on tank cover. Pipefitter applies fill boxes and tests system.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 48 (4 employees) New Manhours: 32 (2 employees) Savings per unit: 16 hours
Operation of overhead travelling cranes	IBEW	At Beech Grove, large overhead travelling cranes are operated by IBEW represented crane operators. The majority of the cranes are cab (versus pendant) controlled. With improvements in technology, these cranes can be operated by pendant (hanging) or radio controls by anyone who needs to use the crane for lifting. At other Amtrak facilities, overhead travelling cranes are operated by anyone who needs such in connection with their work. In fact, such is the case in the Wheel Shop at Beech Grove where the 6, 3 ton overhead travelling cranes are operated predominately by machinists in connection with their performance of wheel axle work.	Excessive manpower assigned in an area where employees needing the crane can easily operate it with little additional time required. At all other facilities where travelling cranes are operated, including the wheel shop at Beech Grove, no crane operators are needed or employed. Present Manpower: 15 (crane operators) New Manpower: 0 Savings: 15 positions currently assigned in whole/part
Fabrication of metal parts for rolling stock/facilities	SMW JCC IBB	At Beech Grove, various metal parts/items such as brackets, racks, trim, bars, etc. are manufactured in four main areas by three crafts. The demarcation between crafts is generally determined by gauge and type of of application (building, passenger car or locomotive). Many of the same skills and tools (press brakes, shears, drill presses band saws, grinders, brazing/welding equipment, etc.) are used in the individual operations.	Efficient use of manpower prohibited because of artificial lines of demarcation (gauge and use). Waiting time for parts increases. When assignment of work can not be made to available, as well as nearby forces. The ebb and flow of work can not be equalized because of compartmentalization caused to craft lines. Equipment inventory is also inflated account of craft lines. Savings are estimated to approach 15% of daily manhours presently assigned in fabrication tasks.

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Removal of broken spring from metal rollup building door	IAM SMW IBEW	Electrician disconnects leads to motor. Machinist unbolts side rails and removes end guides, curtain and drum to repair spring.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 18 (4 employees) New Manhours: 16 (3 employees) Savings per unit: 2 hours
Removal of compressor from building central air conditioning unit	IBEW SMW IAM	Electrician disconnects leads from motor portion of unit. Pipefitter drains freon down and disconnects hi/low pressure lines. Machinist unbolts unit and removes.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 12 (4 employees) New Manhours: 4 (2 employees) Savings per unit: 8 hours
Removal of overhead travelling crane motor	IAM IBEW	Electrician disconnects leads from motor and "locks" crane. Machinist unbolts motor, takes brake shoes off and removes motor from carriage.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Removal of motor on axle lathe	IBEW IAM	Electrician disconnects leads from motor. Machinist unbolts motor, breaks coupling and removes motor.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (2 employees) New Manhours: 2 (1 employee) Savings per unit: 1 hour

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove dishwasher (Superliner)	IBEW JCC SMW	Electrician disconnects wiring leads. Pipefitter disconnects water pipe and drain. Carman unbolts brackets and removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (3 employees) New Manhours: 1/2 (2 employees) Savings per unit: 1/2 hour
Assembly of pair of passenger car trucks	JCC IBEW SMW	Carman assembles basic reconditioned truck parts (frame, bolsters, air brake cylinder, hangers, wheels, etc.) Electrician applies surveillance devices (wheel slip, hot journal and ground) Carman fastens cabling to truck with welded welded clamps. Pipefitter applies air brake piping to truck and air brake cylinder. Carman welds piping to truck.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 64 (4 employees) New Manhours: 48 (2 employees) Savings per pair: 16 hours
Remove electric griddle from Superliner Dining Car	JCC IBEW	Electrician disconnects control wiring. Carman unbolts and removes griddle.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (2 employees) New Manhours: 1/2 (2 employees) Savings per unit: 1/2 hour
Replacement of light switch- Amfleet reading light	IBEW JCC	Carman unbolts luggage restraint bar. Electrician unscrews panel, replaces light switch and screws on panel. Carman puts luggage restraint bar back.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 1 (2 employees) New Manhours: 1/2 (1 employee) Savings per unit: 1/2 hour

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SAMPLE OF WORK INEFFICIENCIES CAUSED BY CRAFT JURISDICTIONS, BEECH GROVE (Cont.)

WORK	CRAFT(S) INVOLVED	PROCESS	INEFFICIENCY/SAVINGS
Remove/recondition lube oil heat exchanger (diesel locomotive)	IAM SMW	Machinist unbolts unit from equipment rack, sets off and unbolts cover. Pipefitter cleans and tests cores, replaces gaskets, fittings and flanges, as needed, and fills with fluid. Machinist bolts un cover. Pipefitter tests unit, mounts on rack and connects piping.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 9 (2 employees) New Manhours: 8 (1 employee) Savings per unit: 1 hours
Removal of air compressor (diesel locomotive)	IAM SMW	Pipefitter disconnects water/air lines. Machinist unbolts base bolts, uncouples main drive, removes dowels and then removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 2 (2 employees) Savings per unit: 1 hour
Removal of hydraulic tracer on wheel lathe	IBEW SMW IAM	Electrician removes limit switches. Pipefitter disconnects hydraulic lines. Machinist unbolts tracer and removes unit.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 3 (3 employees) New Manhours: 1 (1 employee) Savings per unit: 2 hours
Removal of carriage on an axle lathe	IAM SMW	Machinist unbolts carriage and removes jib guides. Pipefitter disconnects oil lines. Machinist removes carriage.	Excessive manpower assigned with related loss of productivity due to coordination and waiting time. Present Manhours: 6 (4 employees) New Manhours: 4 (2 employees) Savings per unit: 2 hours

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OPERATING EXPENSES BREAKDOWN

Mr. COUGHLIN. Please update for the record the data found on page 364 of last year's hearing record on operating expenses, by adding fiscal year 1991 and dropping fiscal year 1988. Please also add a column for fiscal year 1991 spreading the $76.6 million inflation increase among subaccounts.

[The information follows:]

NATIONAL RAILROAD PASSENGER CORP. OPERATING EXPENSE COMPARISON

[In millions of dollars]

	Fiscal year			Inflated fiscal year 1991 grant request
	1989 actual	1990 budget	1991 grant request	
Operating Expenses:				
Train operations	401.0	425.6	429.9	448.7
Maintenance of equipment	429.0	439.2	444.9	464.4
Maintenance of way	226.8	214.8	215.5	225.0
On-board services	165.6	167.1	172.5	180.0
Station services	115.7	117.8	120.1	125.3
Marketing and reservation	172.9	186.2	187.3	195.5
General support	135.7	141.3	140.1	146.2
Insurance and interest	80.3	101.6	106.4	106.4
Depreciation	165.8	176.1	180.1	180.1
General and administrative	41.7	43.0	42.6	44.4
Total operating expense	1,934.5	2,012.7	2,039.4	2,116.0
Provision for inflation increase			76.6	
Less:				
Cost of Oblig. Non-Amtrak Programs[1]	193.0	202.0	216.0	216.0
Expense not requiring appropriations	166.6	178.1	181.0	181.0
Funded Amtrak expenses	1,574.9	1,632.6	1,719.0	1,719.0
Total revenue	1,269.1	1,371.7	1,500.0	1,500.0
Less: Restricted revenue	55.0	56.2	60.0	60.0
Revenue available for operations	1,214.1	1,315.5	1,440.0	1,440.0
Grant requirement for Amtrak operations	360.8	317.1	279.0	279.0
Revenue to cost ratio	.718	.748	.776	.776
Summary of grant request:				
Amtrak operations	360.8	317.1	279.0	279.0
Labor protection	.8	2.0	1.0	1.0
Capital	29.4	83.6	188.0	188.0
Grant used to benefit obligatory Non-Amtrak programs[1]	193.0	202.0	216.0	216.0
Total grant	584.0	604.7	684.0	684.0

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[1] Impact of RRTA, RUIA and FELA in excess of actual liability or State Worker's Compensation and pass through support for NEC Commuter Operations.

OPERATING EXPENSES BY ROUTE

Mr. COUGHLIN. Please also update for the record the breakdown of operating expenses by route category similar to that shown on pages 364–371 of last year's hearing record.

[The information follows:]

The route-by route summaries for fiscal years 1989, 1990, and 1991 follows:

FY1989 ROUTE BY ROUTE SUMMARY
$(000'S)

	REVENUE	LONG-TERM AVOIDABLE COST	LONG-TERM AVOIDABLE PROFIT/(LOSS)	SHORT-TERM AVOIDABLE COST	SHORT-TERM AVOIDABLE PROFIT/(LOSS)	PASSENGER MILES (000'S)	TRAIN MILES (000'S)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/(LOSS)/PM	REVENUE/LONG-TERM AVOIDABLE COST	REVENUE/SHORT-TERM AVOIDABLE COST
NORTHEAST CORRIDOR											
METROLINER SERVICE	109 572	60 630	48 942	47 686	61 886	304 848	2 097	145	0.203	1.81	2.30
NEC CONVENTIONALS	213 021	155 051	57 970	119 999	93 022	1 011 604	5 154	196	0.092	1.37	1.78
ATLANTIC CITY	1 861	5 613	(3 752)	4 514	(2 653)	12 300	178	69	(0.216)	0.33	0.41
NYC-PHILADELPHIA	2 295	2 946	(651)	2 195	100	11 029	113	98	0.009	0.78	1.05
PHILADELPHIA-HARRISBURG	2 020	4 177	(2 157)	3 365	(1 345)	14 961	216	69	(0.090)	0.48	0.60
TOTAL NEC	328 769	*	*	*	*	1 354 932	7 758	175	0.111	1.44	1.85
SHORT DISTANCE											
NYC-NIAGARA FALLS	35 144	35 769	(625)	26 649	8 495	194 362	1 496	130	0.044	0.98	1.32
CHICAGO-ST. LOUIS	3 357	7 622	(4 265)	5 859	(2 502)	27 953	465	60	(0.090)	0.44	0.57
CHICAGO-MILWAUKEE	2 259	4 078	(1 819)	3 235	(976)	16 283	187	87	(0.060)	0.55	0.70
CHICAGO-DET-TOLEDO	5 565	12 632	(7 067)	9 717	(4 152)	50 395	544	93	(0.082)	0.44	0.57
L.A.-SAN DIEGO	10 822	13 185	(2 363)	10 425	397	65 335	372	176	0.006	0.82	1.04
PORTLAND-SEATTLE	1 426	2 912	(1 486)	2 357	(931)	12 305	132	93	(0.076)	0.49	0.61
CHICAGO-INDIANAPOLIS	1 396	3 207	(1 811)	2 579	(1 183)	10 484	142	74	(0.113)	0.44	0.54
TOTAL SHORT DISTANCE	59 969	*	*	*	*	377 117	3 338	113	(0.002)	0.76	0.99
403B											
PHILA-HARRISBURG	693	1 134	(441)	908	(215)	2 215	70	32	(0.097)	0.61	0.76
CHICAGO-SPRINGFIELD	2 835	3 793	(958)	2 902	(67)	15 131	235	64	(0.004)	0.75	0.98
CHICAGO-CARBONDALE	2 798	4 167	(1 369)	3 119	(321)	17 946	226	79	(0.018)	0.67	0.90
CHICAGO-QUINCY	2 733	3 590	(857)	2 835	(102)	14 258	191	75	(0.007)	0.76	0.96
L.A.-SAN DIEGO	12 804	13 975	(1 171)	11 117	1 687	71 589	447	160	0.024	0.92	1.15
OAKLAND-BAKERSFIELD	11 121	14 388	(3 267)	11 597	(476)	59 252	455	130	(0.008)	0.77	0.96
ALBANY-MONTREAL	4 067	5 240	(1 173)	4 162	(95)	25 751	173	148	(0.004)	0.78	0.98
CHICAGO-PORT HURON-(TOR)	3 138	4 048	(910)	3 196	(58)	17 494	231	76	(0.003)	0.78	0.98
KANSAS CITY-ST. LOUIS	5 206	7 130	(1 924)	5 701	(495)	26 462	408	65	(0.019)	0.73	0.91
PHIL-PITTSBURGH-(NYC)	5 445	5 462	(17)	4 143	1 302	32 888	257	128	0.040	1.00	1.31
CHICAGO-GRAND RAPIDS	2 127	2 749	(622)	2 186	(59)	9 792	128	76	(0.006)	0.77	0.97
TOTAL 403B	52 967	*	*	*	*	292 688	2 821	104	0.004	0.81	1.02
403D											
NYC-PHILADELPHIA	10 814	10 310	504	7 324	3 490	76 187	185	412	0.046	1.05	1.48
PHILA-HARRISBURG	478	1 436	(958)	1 129	(651)	3 877	51	76	(0.168)	0.33	0.42
NYC-HARRISBURG	4 053	3 072	981	2 371	1 682	22 488	96	234	0.075	1.32	1.71
CHICAGO-VALPARAISO	336	1 311	(975)	971	(635)	3 635	24	150	(0.175)	0.26	0.35
TOTAL 403D	15 681	*	*	*	*	106 187	356	298	0.037	0.97	1.33
LONG DISTANCE											
WASHINGTON-MONTREAL	1 780	2 694	(914)	2 143	(363)	12 474	62	202	(0.029)	0.66	0.83
NYP-FLA SILVER STAR	36 883	47 541	(10 658)	35 068	1 815	325 878	1 219	267	0.006	0.78	1.05
CHICAGO-PGH-NEW YORK	17 038	23 982	(6 944)	17 484	(446)	112 403	668	168	(0.004)	0.71	0.97
CHICAGO-WASH-NEW YORK	6 395	12 746	(6 351)	9 830	(3 435)	50 319	360	140	(0.068)	0.50	0.65
NYP-FLA SILVER METEOR	37 170	44 219	(7 049)	32 749	4 421	336 466	1 040	324	0.013	0.84	1.13
CHICAGO-SEA/PORTLAND	37 174	57 952	(20 778)	43 999	(6 825)	324 913	1 859	175	(0.021)	0.64	0.84
CHICAGO-PGH-WASHINGTON	12 866	20 147	(7 281)	14 605	(1 739)	86 300	563	153	(0.020)	0.64	0.88
CHICAGO-SLC-OAKLAND (A)	43 245	59 942	(16 697)	46 009	(2 764)	336 133	1 767	211	(0.008)	0.72	0.94
CHICAGO-LOS ANGELES	35 347	48 881	(13 534)	35 901	(554)	319 014	1 632	195	(0.002)	0.72	0.98
CHICAGO-NEW ORLEANS	12 044	21 404	(9 360)	15 570	(3 526)	108 000	675	160	(0.033)	0.56	0.77
CHICAGO-TEXAS-(LA) (B)	13 450	22 197	(8 747)	17 199	(3 749)	147 367	391	262	(0.025)	0.61	0.78
NEW ORLEANS-SAS-LOS ANGELES (B)	11 826	21 416	(9 590)	16 590	(4 764)	121 012	633	262	(0.039)	0.55	0.71
LOS ANGELES-SEATTLE	37 673	47 092	(9 419)	36 936	737	328 032	1 014	322	0.002	0.80	1.02
CHICAGO-NYC/BOSTON	26 979	34 352	(7 373)	24 992	1 987	195 400	860	227	0.010	0.79	1.08
BOSTON-NEWPORT NEWS	10 386	8 257	2 029	6 726	3 660	73 253	217	338	0.050	1.25	1.55
NEW YORK-JACKSONVILLE	12 203	14 323	(2 120)	10 804	1 399	93 915	526	179	0.015	0.85	1.13
(CHI)-SLC-SEATTLE (A)	12 012	21 890	(9 878)	16 648	(4 636)	130 532	775	211	(0.036)	0.55	0.72
NEW YORK-NEW ORLEANS	27 740	39 280	(11 540)	29 053	(1 307)	215 303	1 007	214	(0.006)	0.71	0.96
(KCY)-STL-CEN-(NOL)	778	1 794	(1 016)	1 297	(519)	7 870	87	90	(0.066)	0.43	0.60
(CHI)-SLC-LOS ANGELES (A)	16 433	20 881	(4 448)	15 671	762	109 650	576	211	0.007	0.79	1.05
AUTO TRAIN	43 997	38 499	5 498	29 823	14 174	196 879	618	319	0.072	1.14	1.48
TOTAL LONG DISTANCE	453 325	*	*	*	*	3 709 313	16 547	224	(0.002)	0.74	0.99
ROUTE TOTAL	910 711	*	*	*	*	5 840 237	30 820	189	0.026	0.91	1.20
OTHER	358 359										
SYSTEM TOTAL	1 269 070										

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS REPORT

(A) PM PER TM FOR CHI-SLC-OAK (CHI)-SLC-SEA AND (CHI)-SLC-LAX ARE CONSOLIDATED

(B) PM PER TM FOR CHI-TEXAS-(LAX) AND NOL-SAS-LAX ARE CONSOLIDATED

CORPORATE PLANNING
MARCH 8, 1990
DISK GAD20 DIR:FY90EXE FILE:0988ACT2

NOTES ACCOMPANYING FY89 ROUTE BY ROUTE

GENERAL NOTES:

* INDIVIDUAL ROUTE TOTALS ARE NOT ADDITIVE FOR SHORT-TERM/LONG-TERM AVOIDABLE COST, PROFIT AND LOSS.

ROUTE GROUPS:

NORTHEAST CORRIDOR:
-ATLANTIC CITY SERVICE EFFECTIVE 5/23/89.

SHORT DISTANCE:
-NONE

403(B):
-ALL 403(B) FIGURES INCLUDE STATE PAYMENTS.

403(D):
-NONE

LONG DISTANCE:
-WASHINGTON-MONTREAL SERVICE EFFECTIVE 7/23/89.
-NEW YORK-JACKSONVILLE SERVICE EFFECTIVE 11/15/88.
PREVIOUSLY OPERATED NEW YORK-SAVANNAH.
-CHICAGO-DALLAS-HOUSTON SERVICE EFFECTIVE 11/15/88.

PERFORMANCE CRITERIA:

SHORT DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.162)

LONG DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.124)

THE FOLLOWING ROUTES FAIL THE PERFORMANCE CRITERIA:
CHICAGO-VALPARAISO (0.175)

CORPORATE PLANNING
FEBRUARY 9, 1990
DISK:GAD20 DIR:FY90RXR FILE:NOTES89

FY1990 ROUTE BY ROUTE FORECAST
(000 $)

	REVENUE	LONG-TERM AVOIDABLE COST	LONG-TERM AVOIDABLE PROFIT/(LOSS)	SHORT-TERM AVOIDABLE COST	SHORT-TERM AVOIDABLE PROFIT/(LOSS)	PASSENGER MILES (000 S)	TRAIN MILES (000 S)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/(LOSS)/PM	REVENUE/LONG-TERM AVOIDABLE COST	REVENUE/SHORT-TERM AVOIDABLE COST
NORTHEAST CORRIDOR											
METROLINER SERVICE	125 139	67 985	57 154	53 454	71 685	333 583	2 417	138	0 215	1 84	2 34
NEC CONVENTIONALS	227 668	157 424	70 244	122 406	105 162	1 061 053	5 475	191	0 101	1 45	1 86
ATLANTIC CITY	8 006	15 183	(7 177)	12 181	(4 175)	58 834	520	111	(0 071)	0 53	0 66
NYC-PHILADELPHIA	2 271	2 533	(262)	1 881	390	10 397	119	87	0 038	0 90	1 21
PHILADELPHIA-HARRISBURG	1 991	3 911	(1 920)	3 040	(1 049)	14 165	224	63	(0 074)	0 51	0 65
TOTAL NEC	365 075	*	*	*	*	1 480 032	8 763	167	0 118	1 60	1 89
SHORT DISTANCE											
NYC-NIAGARA FALLS	37 911	36 762	1 149	26 522	11 389	200 306	1 565	128	0 057	1 03	1 43
CHICAGO-ST LOUIS	3 218	7 238	(4 020)	5 670	(2 452)	24 292	445	55	(0 101)	0 44	0 57
CHICAGO-MILWAUKEE	2 447	3 764	(1 317)	3 074	(627)	16 596	188	88	(0 038)	0 65	0 80
CHICAGO-DET-TOLEDO	5 641	12 275	(6 634)	9 512	(3 871)	50 291	548	92	(0 077)	0 46	0 59
L A -SAN DIEGO	10 519	13 683	(3 164)	11 116	(597)	58 553	374	157	(0 010)	0 77	0 95
PORTLAND-SEATTLE	1 498	2 816	(1 318)	2 285	(787)	12 560	134	94	(0 063)	0 53	0 66
CHICAGO-INDIANAPOLIS	1 393	3 064	(1 671)	2 500	(1 107)	10 323	142	73	(0 107)	0 45	0 56
TOTAL SHORT DISTANCE	62 627	*	*	*	*	372 929	3 396	110	0 005	0 79	1 03
403B											
PHILA-HARRISBURG	704	1 096	(392)	841	(137)	1 654	71	23	(0 083)	0 64	0 84
CHICAGO-SPRINGFIELD	2 938	3 941	(1 003)	3 049	(111)	15 989	251	64	(0 007)	0 75	0 96
CHICAGO-MILWAUKEE	966	1 101	(135)	906	60	5 620	116	47	0 011	0 88	1 07
CHICAGO-CARBONDALE	2 821	4 153	(1 332)	3 143	(322)	16 855	226	75	(0 019)	0 68	0 90
CHICAGO-QUINCY	2 837	3 684	(847)	2 959	(122)	14 309	192	75	(0 008)	0 77	0 96
L A -SAN DIEGO	14 903	14 228	675	11 613	3 290	80 968	449	180	0 041	1 05	1 28
OAKLAND-BAKERSFIELD	15 992	19 939	(3 947)	16 441	(449)	73 599	635	116	(0 006)	0 80	0 97
ALBANY-MONTREAL	3 874	5 450	(1 576)	3 925	(51)	18 792	177	106	(0 003)	0 71	0 99
CHICAGO-PORT HURON-(TOR)	3 291	3 951	(660)	3 149	142	17 262	231	75	0 008	0 83	1 05
BIRMINGHAM-MOBILE	3 681	4 383	(702)	3 377	304	24 274	876	28	0 013	0 84	1 09
KANSAS CITY-ST LOUIS	5 402	7 667	(2 265)	6 376	(926)	25 058	413	61	(0 037)	0 70	0 85
PHIL-PITTSBURGH-(NYC)	5 656	5 618	38	4 375	1 281	32 691	256	128	0 039	1 01	1 29
CHICAGO-GRAND RAPIDS	2 229	2 753	(524)	2 259	(30)	9 654	128	75	(0 003)	0 81	0 99
TOTAL 403B	65 294	*	*	*	*	336 615	4 021	84	0 009	0 84	1 05
403D											
NYC-PHILADELPHIA	10 624	11 270	(646)	8 400	2 224	71 900	188	382	0 031	0 94	1 26
PHILA-HARRISBURG	511	830	(319)	641	(130)	3 906	55	71	(0 033)	0 62	0 80
NYC-HARRISBURG	4 032	3 442	590	2 689	1 343	21 210	102	208	0 063	1 17	1 50
CHICAGO-VALPARAISO	364	1 323	(959)	1 036	(672)	3 840	23	167	(0 175)	0 28	0 35
TOTAL 403D	15 531	*	*	*	*	100 856	368	274	0 027	0 92	1 22
LONG DISTANCE											
WASHINGTON-MONTREAL	7 378	14 743	(7 365)	11 346	(3 968)	55 847	308	181	(0 071)	0 50	0 65
NYP-FLA SILVER STAR	41 001	48 880	(7 879)	36 617	4 384	343 056	1 191	288	0 013	0 84	1 12
CHICAGO-PGH-NEW YORK	17 823	23 852	(6 029)	18 169	(346)	112 872	664	170	(0 003)	0 75	0 98
CHICAGO-WASH-NEW YORK	6 844	13 165	(6 321)	10 278	(3 434)	50 692	359	141	(0 068)	0 52	0 67
NYP-FLA SILVER METEOR	41 517	46 572	(5 055)	34 873	6 644	352 011	1 037	339	0 019	0 89	1 19
CHICAGO-SEA/PORTLAND	39 028	58 172	(19 144)	44 971	(5 943)	324 197	1 885	172	(0 018)	0 67	0 87
CHICAGO-PGH-WASHINGTON	13 382	20 054	(6 672)	15 229	(1 847)	85 407	559	85	(0 022)	0 67	0 88
CHICAGO-SLC-OAKLAND (A)	47 024	59 072	(12 048)	46 029	995	332 956	1 772	210	0 003	0 80	1 02
CHICAGO-LOS ANGELES	40 170	48 083	(7 913)	35 850	4 320	325 220	1 638	199	0 013	0 84	1 12
CHICAGO-NEW ORLEANS	12 545	20 860	(8 315)	15 593	(3 048)	106 639	675	158	(0 029)	0 60	0 80
CHICAGO-TEXAS-(LA) (B)	17 528	29 424	(11 896)	23 384	(5 856)	183 779	758	217	(0 032)	0 60	0 75
NEW ORLEANS-SAS-LOS ANGELES (B)	12 357	21 717	(9 360)	17 022	(4 665)	118 736	634	217	(0 039)	0 57	0 73
LOS ANGELES-SEATTLE	40 208	46 460	(6 252)	36 465	3 743	327 665	1 015	323	0 011	0 87	1 10
CHICAGO-NYC/BOSTON	30 511	35 123	(4 612)	25 934	4 577	199 399	847	235	0 023	0 87	1 18
BOSTON-NEWPORT NEWS	10 865	8 990	1 875	7 092	3 773	74 667	239	312	0 051	1 21	1 53
NEW YORK-JACKSONVILLE	13 214	14 569	(1 355)	11 203	2 011	94 407	549	172	0 021	0 91	1 18
(CHI)-SLC-SEATTLE (A)	13 131	22 727	(9 596)	17 236	(4 105)	131 159	788	210	(0 031)	0 58	0 76
NEW YORK-NEW ORLEANS	29 980	41 740	(11 760)	31 265	(1 285)	220 537	1 007	219	(0 006)	0 72	0 96
(KCY)-STL-CEN-(IND)	761	1 741	(980)	1 301	(540)	7 299	38	83	(0 074)	0 44	0 58
(CHI)-SLC-LOS ANGELES (A)	18 062	21 666	(3 604)	16 180	1 882	193 229	577	210	0 010	0 83	1 12
AUTO TRAIN	46 900	39 869	7 031	29 573	17 327	201 827	629	321	0 086	1 18	1 59
TOTAL LONG DISTANCE	500 229	*	*	*	*	3 841 639	17 219	223	0 004	0 78	1 03
ROUTE TOTAL	1 008 756	*	*	*	*	6 112 071	33 767	181	0 032	0 95	1 24
OTHER	362 936										
SYSTEM TOTAL	1 371 692										

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS REPORT
(A) PM PER TM FOR CHI-SLC-OAK (CHI)-SLC-SEA AND (CHI)-SLC-LAX ARE CONSOLIDATED
(B) PM PER TM FOR CHI-TEXAS-(LAX) AND NOL SAS-LAX ARE CONSOLIDATED

CORPORATE PLANNING
MARCH 14 1990
#9001166/19001034
DISK 19622 DIR FY900XB FILE FY900XB

NOTES ACCOMPANYING FY90 ROUTE BY ROUTE

GENERAL NOTES:

* INDIVIDUAL ROUTE TOTALS ARE NOT ADDITIVE FOR SHORT-TERM/LONG-TERM AVOIDABLE COST, PROFIT AND LOSS.

ROUTE GROUPS:

NORTHEAST CORRIDOR:
- INCLUDES A FULL YEAR OF ATLANTIC CITY SERVICE. AFTER INCLUDING ATTRIBUTABLE REVENUE ON OTHER ROUTES, THE SERVICE IS PROJECTED TO MEET THE CONGRESSIONAL CRITERIA.

SHORT DISTANCE:
- NONE

403(B):
- INCLUDES THE GULF BREEZE AND THE HIAWATHA SERVICE EFFECTIVE 10/29/89.
- INCLUDES A THIRD SAN JOAQUIN FREQUENCY EFFECTIVE 12/17/89.
- ALL 403(B) FIGURES INCLUDE STATE PAYMENTS.

403(D):
- NONE

LONG DISTANCE:
- INCLUDES A FULL YEAR OF WASHINGTON-MONTREAL SERVICE.
- INCLUDES DAILY FREQUENCY OF THE TEXAS EAGLE EFFECTIVE 1/20/90.

PERFORMANCE CRITERIA:

SHORT DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.168)

LONG DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.128)

THE FOLLOWING ROUTES FAIL THE PERFORMANCE CRITERIA:
CHICAGO-VALPARAISO (0.175)

CORPORATE PLANNING
MARCH 14, 1990
DISK: LRA22 FILE: FY90RXR\NOTES90

FY1991 ROUTE BY ROUTE FORECAST
(000'S)

	REVENUE	LONG-TERM AVOIDABLE COST	LONG-TERM AVOIDABLE PROFIT/(LOSS)	SHORT-TERM AVOIDABLE COST	SHORT-TERM AVOIDABLE PROFIT/(LOSS)	PASSENGER MILES (000 S)	TRAIN MILES (000 S)	PM/TM	SHORT-TERM AVOIDABLE PROFIT/(LOSS)/PM	REVENUE/LONG-TERM AVOIDABLE COST	REVENUE/SHORT-TERM AVOIDABLE COST
NORTHEAST CORRIDOR											
METROLINER SERVICE	135 773	72 730	63 043	57 332	78 441	337 780	2 417	140	0 232	1 87	2 37
NEC CONVENTIONALS	249 225	167 639	81 586	130 558	118 667	1 062 984	5 475	194	0 112	1 49	1 91
ATLANTIC CITY	10 630	17 602	(6 972)	14 121	(3 491)	78 115	608	128	(0 045)	0 60	0 75
NYC-PHILADELPHIA	2 464	2 676	(212)	1 989	475	10 506	119	88	0 045	0 92	1 24
PHILADELPHIA-HARRISBURG	2 846	4 226	(1 380)	3 290	(444)	17 110	224	76	(0 026)	0 67	0 87
TOTAL NEC	400 938	*	*	*	*	1 506 475	8 843	170	0 129	1 51	1 93
SHORT DISTANCE											
NYC-NIAGARA FALLS	45 621	42 228	3 393	30 727	14 894	235 027	1 634	144	0 063	1 08	1 48
CHICAGO-ST LOUIS	3 571	7 610	(4 039)	5 963	(2 392)	25 300	445	57	(0 094)	0 47	0 60
CHICAGO-MILWAUKEE	2 053	3 364	(1 311)	2 637	(584)	16 764	188	89	(0 035)	0 61	0 78
CHICAGO-DET-TOLEDO	6 103	12 888	(6 785)	9 990	(3 887)	50 929	548	93	(0 076)	0 47	0 61
L A -SAN DIEGO	13 746	15 587	(1 841)	12 643	1 103	75 301	414	182	0 015	0 88	1 09
PORTLAND-SEATTLE	1 631	2 959	(1 328)	2 401	(770)	12 727	134	95	(0 061)	0 55	0 68
CHICAGO-INDIANAPOLIS	1 508	3 217	(1 709)	2 625	(1 117)	10 454	142	74	(0 107)	0 47	0 57
TOTAL SHORT DISTANCE	74 823	*	*	*	*	426 532	3 505	122	0 017	0 85	1 11
403B											
PHILA-HARRISBURG	750	1 148	(398)	881	(131)	1 676	71	24	(0 078)	0 65	0 85
CHICAGO-SPRINGFIELD	3 164	4 163	(999)	3 186	(22)	16 197	251	65	(0 001)	0 77	0 99
CHICAGO-MILWAUKEE	1 198	1 298	(100)	1 065	133	5 490	126	44	0 022	0 92	1 12
CHICAGO-CARBONDALE	3 088	4 371	(1 283)	3 310	(222)	17 089	226	76	(0 013)	0 71	0 93
CHICAGO-QUINCY	3 073	3 874	(801)	3 113	(40)	14 571	192	76	(0 003)	0 79	0 99
L A -SAN DIEGO	16 636	17 613	(977)	14 313	2 323	83 021	524	158	0 028	0 94	1 16
OAKLAND-BAKERSFIELD	18 665	22 390	(3 725)	18 493	172	77 776	802	97	0 002	0 83	1 01
ALBANY-MONTREAL	4 209	5 733	(1 524)	4 132	77	19 030	177	108	0 004	0 73	1 02
CHICAGO-PORT HURON-(TOR)	3 563	4 161	(598)	3 318	245	17 481	231	76	0 014	0 86	1 07
ROCKY MOUNT-CHARLOTTE	3 758	3 975	(217)	3 327	431	20 156	178	113	0 021	0 95	1 13
BIRMINGHAM-MOBILE	4 132	4 999	(867)	3 854	278	24 990	969	26	0 011	0 83	1 07
KANSAS CITY-ST LOUIS	5 817	8 047	(2 230)	6 639	(822)	25 386	413	61	(0 032)	0 72	0 88
(NYC)-PHIL-PITTSBURGH-(CLEV)	8 253	7 752	501	6 022	2 231	47 074	358	134	0 047	1 06	1 37
CHICAGO-GRAND RAPIDS	2 415	2 897	(482)	2 376	39	9 778	128	76	0 004	0 83	1 02
TOTAL 403B	78 670	*	*	*	*	370 191	4 626	80	0 012	0 85	1 06
403D											
NYC-PHILADELPHIA	11 549	11 919	(370)	8 895	2 654	72 835	188	387	0 036	0 97	1 30
PHILA-HARRISBURG	555	873	(318)	675	(120)	3 957	55	72	(0 030)	0 64	0 82
NYC-HARRISBURG	4 376	3 640	736	2 444	1 932	21 478	102	211	0 071	1 20	1 93
CHICAGO-VALPARAISO	395	1 386	(991)	1 085	(690)	3 888	23	169	(0 177)	0 28	0 36
TOTAL 403D	16 875	*	*	*	*	102 158	368	278	0 033	0 95	1 25
LONG DISTANCE											
WASHINGTON-MONTREAL	7 977	15 329	(7 352)	11 953	(3 976)	56 559	308	184	(0 070)	0 52	0 67
NYP-FLA SILVER STAR	45 408	51 982	(6 574)	38 975	6 433	353 544	1 191	297	0 018	0 87	1 17
CHICAGO-PGH-NEW YORK	20 767	28 779	(8 012)	19 646	1 121	120 419	663	182	0 009	0 72	1 06
CHICAGO-WASH-NEW YORK	7 393	13 870	(6 477)	10 829	(3 436)	51 335	359	143	(0 067)	0 53	0 68
NYP-FLA SILVER METEOR	45 731	49 575	(3 844)	37 157	8 574	350 243	1 037	338	0 024	0 92	1 23
CHICAGO-SEA/PORTLAND	43 054	61 363	(18 309)	47 446	(4 392)	328 308	1 885	174	(0 013)	0 70	0 91
CHICAGO-PGH-WASHINGTON	15 894	21 903	(6 009)	16 651	(757)	93 616	569	165	(0 008)	0 73	0 95
CHICAGO-SLC-OAKLAND (A)	52 104	62 298	(10 194)	48 595	3 509	337 178	1 772	212	0 011	0 84	1 07
CHICAGO-LOS ANGELES	44 985	50 782	(5 797)	37 887	7 098	329 344	1 638	201	0 022	0 89	1 19
CHICAGO-NEW ORLEANS	13 631	22 012	(8 381)	16 463	(2 832)	107 991	675	160	(0 026)	0 62	0 83
CHICAGO-TEXAS-(LA) (B)	21 356	35 272	(13 916)	27 985	(6 629)	208 934	937	210	(0 032)	0 61	0 76
NEW ORLEANS-SAS-LOS ANGELES (B)	13 317	22 885	(9 568)	17 939	(4 622)	120 241	634	210	(0 038)	0 58	0 74
LOS ANGELES-SEATTLE	43 509	49 228	(5 719)	38 638	4 871	331 820	1 015	327	0 015	0 88	1 13
CHICAGO-NYC/BOSTON	33 215	36 754	(3 539)	27 121	6 094	197 984	847	234	0 031	0 90	1 22
BOSTON-NEWPORT NEWS	12 500	9 779	2 721	7 713	4 787	79 382	239	332	0 060	1 28	1 62
NEW YORK-JACKSONVILLE	16 451	16 252	199	12 487	3 964	112 093	549	204	0 035	1 01	1 32
(CHI)-SLC-SEATTLE (A)	14 191	23 972	(9 781)	18 187	(3 996)	132 622	788	212	(0 030)	0 59	0 78
NEW YORK-NEW ORLEANS	32 320	44 063	(11 743)	33 023	(703)	221 047	1 007	220	(0 003)	0 73	0 98
(KCY)-STL-CEN-(NOL)	825	1 832	(1 007)	1 370	(545)	7 394	88	84	(0 074)	0 45	0 60
(CHI)-SLC-LOS ANGELES (A)	19 548	22 969	(3 421)	17 167	2 381	195 679	577	212	0 012	0 85	1 14
AUTO TRAIN	50 655	42 399	8 256	31 537	19 118	204 386	629	325	0 094	1 19	1 61
TOTAL LONG DISTANCE	554 091	*	*	*	*	3 969 293	17 407	227	0 009	0 82	1 07
ROUTE TOTAL	1 126 206	*	*	*	*	6 363 869	34 749	183	0 030	0 98	1 28
OTHER	373 794										
SYSTEM TOTAL	1 500 000										

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THIS REPORT
(A) PM PER TM FOR CHI-SLC-OAK, (CHI)-SLC-SEA, AND (CHI)-SLC-LAX ARE CONSOLIDATED
(B) PM PER TM FOR CHI-TEXAS-(LAX) AND NOL-SAS-LAX ARE CONSOLIDATED

CORPORATE PLANNING
MARCH 14, 1990
M900116A/19001036
DISK LRA22 FILE FY900XB\FY91XXBD

NOTES ACCOMPANYING FY91 ROUTE BY ROUTE

GENERAL NOTES:

* INDIVIDUAL ROUTE TOTALS ARE NOT ADDITIVE FOR SHORT-TERM/LONG-TERM AVOIDABLE COST, PROFIT AND LOSS.

ROUTE GROUPS:

NORTHEAST CORRIDOR:
- INCLUDES EXTENSION OF THE ATLANTIC CITY-WASHINGTON ROUND TRIP TO RICHMOND. AFTER INCLUDING ATTRIBUTABLE REVENUE ON OTHER ROUTES, THE SERVICE IS PROJECTED TO MEET THE CONGRESSIONAL CRITERIA.

SHORT DISTANCE:
- INCLUDES SYRACUSE EXTENSION OF A NEW YORK-ALBANY TRAIN AND A NINTH SAN DIEGAN ON WEEKENDS.
- INCLUDES SIX MONTHS OF EMPIRE SERVICE VIA THE WEST SIDE CONNECTION.

403(B):
- INCLUDES A FULL YEAR OF THE GULF BREEZE AND HIAWATHA SERVICE.
- INCLUDES A FULL YEAR OF THE THIRD SAN JOAQUIN FREQUENCY.
- INCLUDES EXTENSION OF THE PENNSYLVANIAN TO CLEVELAND (THIS SERVICE IS 403(B) BETWEEN PHILADELPHIA AND PITTSBURGH), A SECOND SAN DIEGAN TO SANTA BARBARA AND ONE ROUND TRIP OF ROCKY MOUNT-CHARLOTTE SERVICE.
- ALL 403(B) FIGURES INCLUDE STATE PAYMENTS.

403(D):
- NONE

LONG DISTANCE:
- REFLECTS THE CAPITOL LIMITED VIA CLEVELAND AND THE BROADWAY LIMITED VIA YOUNGSTOWN AND AKRON.
- INCLUDES A FULL YEAR OF DAILY SERVICE ON THE TEXAS EAGLE.

PERFORMANCE CRITERIA:

SHORT DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.175)

LONG DISTANCE:

SHORT-TERM AVOIDABLE (LOSS)/PM: (0.134)

THE FOLLOWING ROUTES FAIL THE PERFORMANCE CRITERIA:
CHICAGO-VALPARAISO (0.177)

INFLATION RATE IN BUDGET ESTIMATE

Mr. COUGHLIN. For the second year in a row, your requested inflation increase is larger than that of the President's budget. (In 1990, Amtrak requested 4.3 percent; the budget was 3.9 percent. In 1991, Amtrak requests 4.4 percent; the budget is 4.3 percent.) Why is your inflation higher than the composite index upon which the President's budget request is based?

[The information follows:]

Amtrak's estimate of inflation differs from CPI-U estimates because the market basket of passenger railroad costs is uniquely different. collectively bargained wages and benefits for railroad workers represent over half of Amtrak expenses. This account includes major uncontrollable cost elements such as outlays for Railroad Retirement taxes which most recently were up 8.1 percent year-to-year and health benefits which have averaged over 20 percent year-to-year increases over the past several years.

INFLATION COSTS

Mr. COUGHLIN. Please provide for the record your inflation costs at the following levels: 3 percent, 3.5 percent, 4 percent, and 4.3 percent.

[The information follows:]

Amtrak's inflation requirements at the levels requested are as follows:

Rate (percent):	*Inflation*
3	$52,700,000
3.5	61,500,000
4	70,300,000
3.3	75,500,000

Mr. COUGHLIN. Please update for the record the inflation cost breakdown shown on page 373 of last year's hearing record by adding data for fiscal year 1991 and deleting data for fiscal year 1986.

[The information follows:]

INFLATION PROJECTION

[In percent]

Category of expense	Fiscal year 1988		Fiscal year 1989		Fiscal year 1990		Fiscal year 1991
	Actual	Grant request estimate	Actual	Grant request estimate	Revised estimate	Grant request estimate	Grant request estimate
Railroad labor and benefits	7.2	4.5	3.6	4.9	4.2	2.3	4.2
Amtrak labor and benefits	5.6	4.5	3.6	4.9	4.6	5.1	4.6
Fuel and power	–.3	8.8	6.7	6.3	3.4	4.1	10.2
Material	5.5	3.3	1.6	4.1	.6	2.2	2.7
Other [1]	4.1	.3	3.5	1.3	2.7	3.2	3.0
Total composite	4.6	3.6	3.6	4.3	3.5	4.3	4.4
Dollar impact (millions)	$70.3	$55.5	$53.9	$65.3	$56.7	$69.3	$76.6

[1] Includes items such as insurance, Commissions, interest, performance incentives et cetera.

WAGE/PRICE BREAKDOWN

Mr. COUGHLIN. Please also provide for the record a breakdown of your fiscal year 1991 estimates of wage/price increases similar to what appears on page 375 of last year's hearing record.

[The information follows:]

[In millions of dollars]

	Cost base	Inflation percent	Inflation impact
Labor/benefits	1,073.5	4.6	49.5
Fuel and power	98.4	10.2	10.0
Materials	140.6	2.7	3.8
Food/on board supplies	45.7	3.8	1.7
Other	258.3	4.5	11.6
Non-inflated	140.6	0	0
Total	1,756.9	4.4	76.6
Electricity	45.7	5.8	2.6
Diesel fuel	46.6	15.2	7.1
Gasoline/mixed fuel	6.1	4.3	.3
Total	98.4	10.2	10.0

TRAIN OPERATING EXPENSES

Mr. COUGHLIN. Please update for the record the train operating expense data found on page 377 of last year's hearing record by adding a 1991 column. Show all numbers in current dollars.

[The information follows:]

The following schedule reflects projected expenses for train operations by functional category as appeared on page 377 of lasst year's hearing record.

TRAIN OPERATIONS

[In millions of dollars]

Functional category	Actual fiscal year 1989	Projected fiscal year	
		1990	1991
Transportation	118.6	119.8	122.5
Block and tower	16.3	17.7	17.9
Dispatching	5.8	6.0	6.1
Road/yard crews	142.8	151.0	155.3
Yard operations	4.2	10.0	10.1
Joint terminals	3.5	3.3	3.3
Performance/avoid	14.3	14.0	14.0
Train operations support	66.3	72.0	68.9
Subtotal	371.8	393.9	398.2
MBTA contract services	29.2	31.7	31.7
Total	401.0	425.6	429.9

Note.—Fiscal year 1991 is in current fiscal year 1990 dollars.

FREIGHT TRAIN INTERFERENCE

Mr. COUGHLIN. Last year, you had some serious delays from interference with freight trains. Has the situation improved today? Are the freight railroads working with you adequately to address the problem?

Mr. CLAYTOR. Well, it's not really improved. Delays in fiscal year 1989 were up 20 percent from 1988. Thus far in fiscal year 1990, they're up 20 percent from 1989. The contract railroads with significant increases from 1988 to 1989 were CSX, which was up 174 percent; Illinois Central, 113 percent; UP, 55 percent; and then the CMW line, Chicago to St. Louis, 30 percent.

I will say that the CSX increase was due to factors that we know about and I think will not be permanent. They introduced a new central dispatching system rather too fast and a high confusion drill resulted, and the freight trains got all mixed up with the passenger trains and the situation was in bad shape.

Then their signalling is on pole lines. Whenever there is a high wind that blows the pine trees down, the signals go out. When the signals go out, the freight trains can't get out of the way of the passenger trains, and you have an awful mess. That's being fixed. They have money for the first time to start putting all of their signal lines underground and that will be gradually fixed and we'll get rid of that one.

Then of course last year, they had a particularly difficult time when the hurricane Hugo came through and wiped everything out and recovering from that made it almost impossible to get the freight trains out of the way of the passenger trains. So I think the CSX one is a special case.

IC, however, is just plain bad. And I don't know what we can do about it. I mentioned that before. It's our most difficult problem. The other two railroads: heavy freight traffic is what caused problems on the UP, and they're working on that—we're working very closely with Union Pacific and I'm very pleased with our arrangements there.

The CMW line has now been purchased by the Southern Pacific. They're going to improve the railroad, they're putting in welded rail, they're doing a lot of things to help it and I think that ought to be okay.

CONTRACT RAILROAD PAYMENTS

Mr. COUGHLIN. Please update for the record the data on contract railroad payments found on page 379 of last year's hearing record.

[The information follows:]

RAILROAD BUDGETS

COST PER TRAIN MILE

	DOLLARS (MILLIONS)			TRAIN MILES (000)			COST PER TRAIN MILE	
	FY89 ACTUAL	FY90 BUDGET	FY91 ESTIMATE	FY89 ACTUAL	FY90 BUDGET	FY91 ESTIMATE	FY90 DOLLARS	FY91 DOLLARS
ATCHISON TOPEKA SF	7.1	6.2	7.5	2,919	2,541	3,089	2.4	2.4
BURLINGTON NORTHERN	9.5	7.6	7.6	2,921	2,358	2,346	3.2	3.2
CANADIAN NAT.-EAST	1.3	2.6	2.6	16	31	32	82.0	82.0
CENTRAL VERMONT	0.1	0.8	0.8	49	100	408	8.5	2.0
CHICAGO MISSOURI WESTERN	0.5	0.5	0.5	606	570	588	0.9	0.9
DELAWARE & HUDSON	0.3	0.0	0.0	153	0	0	0.0	0.0
DENVER & RIO GRANDE	0.9	0.9	0.9	416	450	438	2.1	2.1
GRAND TRUNK WESTERN	0.2	0.2	0.2	115	87	92	2.2	2.2
ILLINOIS CENTRAL GULF	1.3	1.6	1.6	1,039	1,254	1,284	1.3	1.3
MISSOURI,KANSAS & TEXAS	0.2	0.2	0.2	3	3	3	66.2	66.2
SOO LINE	1.7	2.0	2.0	491	556	565	3.5	3.5
METRO TRANSIT AUTH.	7.9	6.2	6.2	1,080	849	846	7.3	7.3
RF&P	1.6	1.6	1.6	456	460	463	3.4	3.4
CSX TRANSPORTATION	18.5	17.8	18.5	3,559	3,421	3,562	5.2	5.2
SOUTHERN PACIFIC	15.8	14.7	14.9	2,042	1,905	1,927	7.7	7.7
SOUTHERN RAILWAY	3.1	2.7	3.1	887	755	879	3.5	3.5
UNION PACIFIC	6.4	6.2	6.2	2,079	1,999	1,999	3.1	3.1
CONRAIL-OFF	3.7	4.0	3.6	3,786	4,063	3,732	1.0	1.0
TOTAL	80.1	75.8	78.0	22,617	21,404	22,254	3.5	3.5

The on-time performance by carrier does not represent the basis for incentive payments.

Payments are earned or lost based on the performance of individual trains.

MAINTENANCE OF PASSENGER CARS

Mr. COUGHLIN. You are requesting increasing amounts of funding for new cars. Are your older cars experiencing high maintenance costs?

Mr. CLAYTOR. Yes. These cars are now over 40 years old, some of them over 50 years old, and we are finding higher maintenance costs because the older parts are increasingly difficult to obtain and replace and the cars were designed in an earlier day and the design is not particularly directed to making them efficient and easy to maintain.

Mr. COUGHLIN. What is the average annual maintenance cost of your Superliners, and how does that compare to each of the past three years?

[The information follows:]

AVERAGE ANNUAL SUPERLINER MAINTENANCE COSTS*

	Fiscal year			
	1990 projected	1989 actual	1988 actual	1987 actual
Running maintenance	$30,665,196	$25,225,138	$19,525,568	$17,903,984
Heavy maintenance	12,135,744	12,619,675	6,899,813	5,861,852
Wreck repair	95,844	805,561	1,301,895	292,608
Total cost	42,896,784	38,650,374	27,727,276	24,058,444

*Source: FInpac 602 Function Report.

Mr. COUGHLIN. What is your number one maintenance problem, and why?

Mr. CLAYTOR. The toughest maintenance problem we have is the Superliner toilet system. This is not a toilet dumping issue; this is a problem with the way the toilets were designed—and apparently they just plain have too many sharp elbows, so that if anyone puts the wrong stuff down a toilet it promptly jams up. The toilets on the Superliners have to be in operation on a continuous basis for up to 48 hours, which makes it even worse.

On a short-haul train, if a toilet goes out, it gets fixed quickly because the train gets to the end of the line. With a long-distance train, it isn't.

We have gotten an in-depth preventive maintenance program that is being done every 120 days that disassembles these toilets. We are redesigning them to get out the sharp elbows and putting gentle elbows in the pipes which will make a difference. We have new methods to improve freeze protection, which is another problem those cars have. And finally, as I mentioned, we are studying new systems that will involve full retention systems. When we do that, we'll be able to re-pipe the whole car and that ought to fix it.

These are the toughest single maintenance problems we have.

Mr. COUGHLIN. How about your Swedish designed locomotives that didn't like to operate in the summer temperatures?

Mr. CLAYTOR. Well, that's fixed. That was basically a problem with the transformer cooling apparatus, and they've all been equipped with new cooling equipment. That one was taken care of. That was taken care of a year or so ago.

PREVENTIVE MAINTENANCE AND OVERHAULS

Mr. **COUGHLIN**. Preventive maintenance and overhauls. You have also stepped up your preventive maintenance and overhauls. What exactly have you done and what impact has it had on your operations and on your revenues?

[The information follows:]

We have increased the scope of work performed on our preventive maintenance program. It is an in-depth program performed every 120 days on most cars and every 90 days on premium cars such as Metroliners. The program includes a thorough functional check of all systems and replaces components before failure.

Also at this time, the Superliner toilet system, our number one problem, is addressed. It includes disassembly of the toilet system, thorough cleaning and repair and replacement.

Likewise, we have increased the scope of work performed on our overhaul programs. Currently, 23 percent of our fleet undergoes overhaul per year. This year's quota includes:

	Percent	Number
Superliners	30	85
Heritage	20	100
Amfleet	24	150
F40's	21	52
AEM7's	26	17
Total	23	404

As a result of increased production and work scope during overhaul and preventive maintenance programs, average daily bad orders have decreased by 25 units, thus making more equipment available for revenue service.

MAINTENANCE OF EQUIPMENT RATIOS

Mr. **COUGHLIN**. Please update for the record the maintenance of equipment ratios found on page 388 of last year's hearing record by updating 1989 and 1990 data and adding a projection for 1991.

[The information follows:]

The following is an update of the maintenance of equipment ratios found on page 388 of last year's hearing record.

	Maintenance of equipment Percent of total expense
Calendar year:	
1971	23
1972	23
Transition (January–June 1973)	17
Fiscal Year:	
1974	18
1975	20
1976	25
Transition Quarter 1976 (July–September)	25
1977	30
1978	29
1979	30
1980	31
1981	28
1982	25
1983	24
1984	24
1985	24
1986	23

1987	24
1988	23
1989	24
1990 estimate	24
1991 projection	23

MAINTENANCE FACILITY DATA

Mr. COUGHLIN. Please also update the maintenance facility data found on page 389 of last year's hearing record by adding a fiscal year 1991 estimate.

[The information follows:]

The following is an update of the maintenance of equipment facility data found on page 389 of last year's hearing record.

AMTRAK MAINTENANCE OF EQUIPMENT

	Fiscal year 1991 estimate (millions)	Manning estimate (man-years)
Location:		
Bear	$23.8	299
Beech Grove	91.5	1,178
Boston	11.1	216
Chicago	52.7	825
Detroit	.5	11
Ft. Worth	.3	6
Houston	.2	4
Hialeah	2.5	3
Jacksonville	.4	15
Kansas City	1.2	14
Lorton	2.0	39
Los Angeles	25.6	376
New Haven	4.9	94
New Orleans	6.2	112
New York	31.0	625
Niagara Falls	1.1	20
Oakland	3.4	59
Philadelphia	30.2	363
Rensselawer	17.0	252
St. Louis	.9	17
St. Paul	.3	5
San Antonio	.4	9
Sanford	8.1	117
Seattle	3.4	59
Tampa	3.2	46
Washington	39.5	692
Wilmington	47.1	489
Subtotal	408.5	5,945
Railroad and Terminal Co.	6.9	0
MBTA	29.5	429
Total	444.9	6,374

[1] These services produce revenues that fully cover their costs.

MAINTENANCE OF WAY EXPENSES

Mr. COUGHLIN. Please update the maintenance of way expense data shown on pages 391 and 392 of last year's hearing record.

[The information follows:]

[In millions of dollars]

	Northeast corridor maintenance of way	Noncorridor maintenance of way	Reimbursable[1] maintenance of way
Fiscal year:			
1978	74.0	3.3	12.9
1979	85.6	1.0	11.9
1980	84.8	19.0	12.5
1981	86.1	19.9	12.5
1982	77.3	19.1	11.5
1983	84.4	18.2	9.8
1984	104.9	22.9	12.2
1985	108.8	29.4	14.1
1986	95.5	25.5	14.2
1987	106.9	27.2	34.3
1988	115.0	24.3	54.1
1989	127.5	22.4	76.9
1990 estimate	131.2	21.2	62.4
1991 projection	132.1	21.4	62.0

[1] Reimbursable includes MBTA, Atlantic City Project, Long Island Railroad Project, other miscellaneous reimbursable projects and Corporate Development M of W projects where applicable.

Note.—Expenses exclude NECIP and Jobs Bill related projects.

State	Fiscal year 1981				
	Communications and signals	Bridges and buildings	Electric traction	Track	Total
California				1.2	1.2
Connecticut	1.7	6.2		8.0	15.9
District of Columbia	.2		0.1	.7	1.0
Delaware	.7	1.5	.6	3.1	5.9
Illinois	.1			2.4	2.5
Louisiana	.1	.5		1.0	1.6
Massachusetts[1]	3.9	6.0		14.7	24.6
Maryland	3.1	3.5	1.7	12.1	20.4
Michigan	.2			2.0	2.2
New Jersey	12.8	12.5	2.3	13.9	41.5
New York	2.5	14.5	2.1	3.7	22.8
Pennsylvania	7.7	22.0	4.0	23.4	57.1
Rhode Island	.8	1.3		.8	2.9
Railroads		1.1		14.8	15.9
Total	33.8	69.1	10.8	101.8	215.5

[1] Includes $17.1 million for MBTA.

Note.—Railroads cannot be identified to specific States. Support and overhead costs have been allocated to the projects identified above.

GRADE CROSSING ELIMINATION

Mr. COUGHLIN. Your justification states that "Amtrak is continuing to work on a priority basis to improve and, where feasible, eliminate grade crossings in order to reduce crossing accidents". Last year, you told us that only four grade crossings were expected to be eliminated in the 1987–1989 time period. How many did you actually eliminate in 1989, and what are your estimates for 1990 and 1991?

[The information follows:]

There were no grade crossing eliminated in the year 1989. No grade crossings have been eliminated since 1987. Wolf Rocks Road in Exeter, Rhode Island at Mile

Post 160.34 is in design by the State of Rhode Island and construction most likely will begin in 1992. Plans call for an undergrade roadway to be installed under the two-track railroad. For high-speed Boston-New Haven operations, we will need to eliminate about 17 grade crossings between New Haven and Boston. These should be financed by highway funds.

GRADE CROSSING IMPROVEMENTS

Mr. COUGHLIN. What is your program to improve grade crossings, and how many have been improved over the past year?

Mr. CLAYTOR. Grade crossing protection—most of the work there was done in Atlantic City where we built the new line. There were 44 grade crossing protections added or improved on 44 crossings on the Atlantic City line. We also had 10 new and 8 improved crossings in the Michigan district.

In addition, the installation of shunt timers, which is a new gadget which makes the protection more effective, was added to 51 grade crossings between Kalamazoo and the state line. All of those in Michigan cost a total of $425,000, all paid for by the state. That's the part of that I like best.

FOOD AND BEVERAGE COSTS

Mr. COUGHLIN. Please update for the record the food and beverage cost data shown on pages 393 and 394 of last year's hearing record.

[The information follows:]

[In millions of dollars]

	Food and beverage comparison	
	Revenue	Expense
Fiscal year 1976	40.8	54.9
Transition quarter	11.7	15.8
Fiscal Year:		
1977	46.8	61.7
1978	46.2	64.0
1979	57.7	76.0
1980	64.0	85.5
1981	76.3	90.7
1982	57.8	57.8
1983	70.3	70.3
1984	76.7	76.7
1985	87.2	87.2
1986	84.2	84.2
1987	90.3	90.3
1988	99.6	99.6
1989	110.3	110.3
1990 estimate	109.4	109.4
1991 projection [1]	115.1	15.1

[1] Fiscal year 1991 expenses are in estimated fiscal year 1991 dollars for consistency in comparison to revenue.

FOOD AND BEVERAGE SERVICE LABOR COSTS

Mr. COUGHLIN. You project a $5.8 million decrease in labor costs for food and beverage service, compared to fiscal year 1990. Why is this?

Mr. **Claytor**. The original fiscal year 1990 grant justification for food and beverage was $113.6. Current fiscal year 1990 budget $109.4 due to reduced overtime and improved control on food supplies. The 1991 budget is $110.3 or 9/10ths of a million increase compared to current, due to volume increases and new services.

These costs are holding pretty well, but when we find a way of making it a little bit more efficient we save a little money. And of course that's all on the basis that we talked about before.

OTHER ON-BOARD SERVICES

Mr. **Coughlin**. The 1988-1990 average for "other on-board support" is $14.3 million. For fiscal year 1991, you are projecting $19.5 million. What is included in this category and why are you expecting such a large increase?

Mr. **Hayward**. The total increase from year to year is only $5.2 million. Part of this is related to the impact of inflation. In addition, there is something on the order of $3.5 million that is associated with a training program we have undertaken to improve the responsiveness and the efficiency of the personnel operating on the trains.

ON-BOARD SERVICE EXPENSES

Mr. **Coughlin**. For the record, please update the breakdown of your on-board service expenses similar to the table shown on page 395 of last year's hearing record.

[The information follows:]

ON BOARD SERVICES

[In millions of dollars; in fiscal years]

	Labor			Other			Total		
	Actual 1989	Estimated 1990	Projected 1991	Actual 1989	Estimated 1990	Projected 1991	Actual 1989	Estimated 1990	Projected 1991
Food and beverage:									
Service	65.2	63.0	64.2	45.2	46.4	46.1	110.4	109.4	110.3
Coach service	19.5	19.3	21.2	4.3	2.4	2.5	23.8	21.7	23.7
Sleeping car service	11.2	11.3	12.4	2.3	3.2	3.3	13.5	14.4	15.7
Other on board:									
Training	1.8	3.8	4.5	0.1	0.3	0.3	1.9	4.1	4.8
Support	13.5	14.2	15.0	2.5	3.2	3.0	16.0	17.4	18.0
Total	111.3	111.6	117.3	54.3	55.5	55.2	165.6	167.1	172.5

Note.—fiscal year 1991 costs are expressed in fiscal 1990 dollars.

CUSTOMER SATISFACTION WITH FOOD SERVICE

Mr. **Coughlin**. What do your customer surveys show about their satisfaction with your food service?

Mr. **Claytor**. Generally, good. Our food service, I think is far superior to what it was and it's getting better all the time. But we are working on making the presentation of the food even better with experiments with china and linen on our long distance trains that have been very successful. We've got to figure out ways to handle that financially. But I think we're going to move in that direction. I think our food service is okay.

PENN STATION IMPROVEMENTS

Mr. COUGHLIN. You were to complete phase 1 of the extensive modernization of New York's Penn Station by September 1989 at a cost of $22 million. Did you make those schedule and cost targets?

Mr. CLAYTOR. Yes, we did. In November 1989, we completed the first phase of the program to redevelop Penn Station. We are now preparing to embark on phase 2, which will extend the improvements made in phase 1 eastward to the 7th Avenue entrance and upgrade a part of existing retail space.

Phase 2 is going to be pretty expensive, but in fact we anticipate that by enhancing this retail space we're going to get enough revenue out of the additional space to pay for all of phase 2. And we're getting into that now.

Mr. COUGHLIN. It seems like Penn Station has been under construction ever since I've been alive.

Mr. CLAYTOR. Well, Penn Station was destroyed by Stewart Saunders and we've been trying to get it back to a situation that you could live with, and that really was the problem. It was torn up and gone. And the substitute station that was built was totally inadequate. And we've had to tear out the whole central part of the station, move all the ticket windows to a different location where it makes more sense, open it up in the middle so we had some space for people to stay, and that was big job. There was not much you could do, you had a limited amount of space. We just had to take that amount of space that was really not adequate and make the best we could for it. It's too bad.

Mr. COUGHLIN. What are your plans for the coming year for continuing that effort, and have you completed the master plan for the overall project?

[The information follows:]

In November 1989, Amtrak completed the first phase of its program to redevelop its New York Penn Station (the Redevelopment Program). Phase I improvements were concentrated on the 8th Avenue side of the station and included a new ticket counter, a new tour center, a new station services office, new rest rooms, a new baggage facility, new first-class lounge, improved climate control, a refurbished waiting room, improved vertical access and the potential to expand existing retail space.

Amtrak is now preparing to embark on Phase II of the Redevelopment Program. Phase II will extend the improvements made in Phase I eastward to the station's 7th Avenue entrance, will upgrade 56,000 square feet of existing retail and will add approximately 30,000 square feet of additional retail. It will also include new or enhanced common areas (floors, ceilings, storefronts, etc.), refurbished Amtrak office and operating space, upgraded heating, ventilating and air conditioning systems, abestos removal, platform-level improvements, and additional modifications to support areas and passenger-handling facilities.

It is anticipated that by enhancing the existing retail space and developing additional retail space, Amtrak will be able to generate enough new revenues to fund Phase II. In May 1990, Amtrak intends to begin the process of selecting an experienced, capable and committed developer to manage the project and maximize the economic and service-related benefits.

PHILADELPHIA 30TH STREET STATION

Mr. COUGHLIN. Can you update us on the project to update Philadelphia's 30th Street station?

Mr. CLAYTOR. Yes, sir. The $75 million rehabilitation project which began in December 1988 is scheduled to be completed in March of 1991. Approximately 60 percent of it is complete and is on schedule and within budget.

STATION RENOVATION PLANS

Mr. COUGHLIN. For the record, please update the information on the New York, Philadelphia, and Chicago station projects as shown on page 398 of last year's hearing record, and provide a future schedule for each of those activities.

[The information follows:]

NEW YORK PENN STATION

In November 1989, Amtrak completed the first phase of its program to redevelop its New York Penn Station (the Redevelopment Program). Phase I improvements were concentrated on the 8th Avenue side of the station and included a new ticket counter, a new tour center, a new station services office, new rest rooms, a new baggage facility, new first-class lounge, improved climate control, a refurbished waiting room, improved vertical access and the potential to expand existing retail space.

Amtrak is now preparing to embark on Phase II of the Redevelopment Program. Phase II will extend the improvements made in Phase I eastward to the station's 7th Avenue entrance, will upgrade 56,000 square feet of existing retail and will add approximately 30,000 square feet of additional retail. It will also include new or enhanced common areas (floors, ceilings, storefronts, etc.), refurbished Amtrak office and operating space, upgraded heating, ventilating and air conditioning systems, asbestos removal, platform-level improvements, and additional modifications to support areas and passenger-handling facilities.

It is anticipated that by enhancing the existing retail space and developing additional retail space, Amtrak will be able to generate enough new revenues to fund Phase II. In May 1990, Amtrak intends to begin the process of selecting an experienced, capable and committed developer to manage the project and maximize the economic and service-related benefits.

30TH STREET STATION

A contract was awarded to the George Hyman Construction Company of Bethesda, Maryland, in November 1988 for the rehabilitation of 30th Street Station, site improvements and construction of a 450-space parking facility. Abestos abatement, demolition and construction is underway and scheduled to be completed in March 1991. The total projected costs including design, development management, and construction financing, is being provided by Banque Paribas ($62 million) and an Urban Development Action Grant ($13 million).

A Memorandum of Understanding was executed in April 1988 with the joint venture team of Gerald D. Hines Interests/Atlantixenter (GDHI/A) as the basis for a Development Agreement currently under negotiation for development of the 65-acres of land and air rights north of the station.

GDHI/A is currently pursuing the first phase of development projected to encompass approximately 12 acres immediately north of the station. As envisioned, the first phase will incorporate 900-car parking facility and ½ million-square-foot commercial office building. Efforts are currently underway to secure project financing and anchor tenant commitment for the office building. Pending these initial commitments, construction could begin within two years.

CHICAGO UNION STATION

The Chicago Union Station Company (CUS) has initiated a two-phase program to make the passenger station function more efficiently for both the commuters and the intercity riders.

The first phase is budgeted at $6.2 million. It includes the installation of nine new escalators and the refurbishment of three others, asbestos removal, creation of passageways to enhance passenger flow primarily by eliminating the crossflow of commuter and intercity passengers, preparation of new retail areas for future building-out, and installation of new electrical service. The phase is essentially complete.

The second phase has begun. It has a budget of approximately $25 million and will provide a complete modernized station facility for both intercity and commuter passengers. This will include new ticket counters, waiting rooms, rest rooms, a first-class lounge and a number of enhanced passenger services. Metra is contributing $7.7 million to the total project cost.

WAGE RATES FOR STATION PERSONNEL

Mr. **Coughlin**. Please also update the data on wage rates for your station personnel found on page 400 of last year's hearing record.

[The information follows:]

WAGE RATE [1] STATION SERVICE PERSONNEL

[In thousands of dollars]

	Fiscal year 1989		Estimated			
			Fiscal year 1990 [2]		Fiscal year 1991 [2]	
	Entry	Full	Entry	Full	Entry	Full
Ticket clerk	21.2	26.8	21.2	26.8	21.2	26.8
Baggageman	18.4	24.5	18.4	24.5	18.4	24.5
Red cap	17.3	23.0	17.3	23.0	17.3	23.0
Usher/gateman	17.6	23.4	17.6	23.4	17.6	23.4

[1] Excludes overtime and benefits.
[2] No rate increases reflected due to new contract negotiations.

AVERAGE WAGES EARNED [1] STATION PERSONNEL

[In thousands of dollars]

	Fiscal year 1989	Estimated	
		Fiscal year 1990 [2]	Fiscal year 1991 [2]
Ticket clerk	25.9	26.5	26.8
Baggageman	23.7	24.2	24.5
Red cap	22.7	22.9	23.0
Usher/gateman	23.0	23.1	23.4

[1] Excludes overtime and benefits.
[2] Increase reflects longevity in the position.

STATION RENOVATION COSTS

Mr. **Coughlin**. Please also update for the record the data on station renovation costs as shown on pages 402 and 403 of last year's hearing record by deleting 1989 and adding 1991.

[The information follows:]

FY90 Station Renovations

STATION	AMTRAK	OTHER	TOTAL
Albany, NY	77,139		77,139
Alexandria, VA	50,000		50,000
Alton, IL	5,900		5,900
Altoona, PA	30,000		30,000
Atmore, AL		30,500	30,500
Bakersfield, CA	229,300	2,000,000	2,229,300
Baltimore/Washington BWI	32,000		32,000
Belton, MT	9,110		9,110
Browning, MT	16,240		16,240
Carlenville, IL	20,000	61,000	81,000
Charleston, SC	6,937		6,937
Charlotte, NC	7,900		7,900
Charlottesville, VA	800,000		800,000
Columbus, WI	44,115		44,115
Davis, CA	70,000		70,000
Evergreen, AL		11,500	11,500
Fayetteville, NC	203,000	275,000	478,000
Flagstaff, AZ	5,000		5,000
Frazier/Winter Park, CO	80,000		80,000
Fredricksburg, VA	100,000	200,000	300,000
Fullerton, CA	16,000		16,000
Glasgow, MT	8,930		8,930
Grand Junction, CO	5,000		5,000
Greenville, AL		11,500	11,500
Havre, MT	98,500		98,500
Holland, MI		1,400,000	1,400,000
Hudson, NY	75,000	1,425,000	1,500,000
Indio, CA	5,000		5,000
Joilet, IL	191,247	2,500,000	2,691,247
Kannapolis, NC		30,000	30,000
Kansas City, MO	5,000		5,000
Kenosha, WS		50,000	50,000
Kingston, RI	150,000	150,000	300,000
Klamath Falls, OR	18,000		18,000
La Junta, CO	15,000		15,000
LaCrosse, WS	70,000		70,000

FY90 Station Renovations

STATION	AMTRAK	OTHER	TOTAL
Lapeer, MI		100,000	100,000
Longview, TX	37,170		37,170
Madera, CA	5,000		5,000
Malta, MT	22,800		22,800
McComb, MS	150,000		150,000
Memphis, TN	1,290,000		1,290,000
Milwaukee, WI	16,586		16,586
Minot, WS	15,000		15,000
Mobile, AL	52,643		52,643
Montgomery, AL		262,100	262,100
Mt. Pleasant, IA	14,500		14,500
New Rochelle, NY	246,686	600,000	846,686
New York Penn Station	311,000		311,000
Newark, NJ	5,000		5,000
Normal, IL	381,750	476,750	858,500
Omaha, NB	37,500		37,500
Ontario, CA	150,000		150,000
Orlando, FL	196,629		196,629
Paoli, PA	100,000	100,000	200,000
Philadelphia, PA	500,000		500,000
Phoenix, AZ	606,000		606,000
Pontiac, MI	14,000	25,000	39,000
Princeton, IL	42,000	43,240	85,240
Providence, RI	250,000		250,000
Rhinecliff, NY	250,000	350,000	600,000
Richmond, VA	127,000		127,000
Rockville, MD	35,000		35,000
Rugby, ND	20,000		20,000
Salisbury, NC	6,800		6,800
Seattle, WA	162,000		162,000
Springfield, IL	300,000	320,000	620,000
St. Cloud, MN	6,000		6,000
St. Louis, MO	20,000	8,750	28,750
Ticonderoga, NY		100,000	100,000
Tomah, WS	1,500	7,000	8,500
Warrensburg, MO		250,000	250,000
Washington, DC	12,585,224	6,564,000	19,149,224
Whitehall, NY	56,000	63,500	119,500
Wolf Point, MT	10,835		10,835
TOTAL FY90 Station Renovations	20,468,941	17,414,840	37,883,781

FY91 Station Renovations

STATION	AMTRAK	OTHER	TOTAL
Bakersfield, CA		2,000,000	2,000,000
Detroit, MI	4,000,000		4,000,000
Joilet, IL		2,500,000	2,500,000
Oakland, CA		11,000,000	11,000,000
Sebring, FL	10,000	350,000	360,000
St. Louis, MO	5,000,000	1,000,000	6,000,000
Various locations under AN* budget	1,400,000		1,400,000
TOTAL FY91 Station Renovations	10,410,000	16,850,000	27,260,000

* AN (Authorization Notice to other railroads)

DMZ/bah 3/27/90

MANNED/UNMANNED STATION DATA

Mr. COUGHLIN. The fiscal year 1991 grant request assumes 232 manned and 272 unmanned stations. How do these numbers compare to past years—is the percentage of manned stations decreasing?

[The information follows:]

The attached schedule reflects the total stations manned by Amtrak and other railroad personnel. In comparison to past years, the percentage of manned stations has decreased.

	Manned		Unmanned	— Total	Percent	
	Amtrak	Other			Radio manned	Ratio unmanned
Fiscal year:						
1986	234	59	217	510	57.5	42.5
1987	222	66	216	504	57.1	42.9
1988	223	29	239	491	51.3	48.7
1989	224	28	239	491	51.3	48.7
1990	229	26	248	503	50.7	49.3
1991	232	20	252	504	50.0	50.0

STATION COSTS

Mr. COUGHLIN. For the record, please provide a breakdown of station costs by station for fiscal years 1989, 1990 and 1991.

[The information follows:]

FY 91 FEDERAL GRANT JUSTIFICATION FACT SHEET
STATION COSTS BY STATION
($000)

TOP 30 STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
PENN STATION, NY	$10,152.2	$10,453.3	$10,662.3
WASHINGTON, DC	7,268.9	7,491.1	7,640.9
CHICAGO, IL	6,994.5	7,223.7	7,368.2
PHILADELPHIA 30TH ST., PA	5,222.2	5,155.5	5,258.6
LOS ANGELES, CA	2,803.7	2,861.3	2,918.5
BOSTON SOUTH, MA	2,173.2	2,224.9	2,269.4
BALTIMORE, MD	2,145.8	2,251.7	2,296.8
NEWARK, NJ	1,757.3	1,705.9	1,740.1
GRAND CENTRAL, NY	1,181.2	1,103.8	565.0
OAKLAND, CA	1,164.9	1,049.2	1,070.2
SEATTLE, WA	939.7	907.0	925.2
HARRISBURG, PA	938.1	968.3	987.7
NEW HAVEN, CT	865.0	941.5	960.3
DENVER, CO	851.6	921.7	940.1
PROVIDENCE, RI	846.9	867.1	884.5
MIDWAY, MN	845.7	806.5	822.7
WILMINGTON, DE	835.0	923.7	942.2
JACKSONVILLE, FL	811.5	790.3	806.1
NEW ORLEANS, LA	793.8	924.7	943.2
TRENTON, NJ	782.2	830.3	846.9
ALBANY, NY	765.1	837.5	854.3
PORTLAND, OR	761.1	760.4	775.6
SAN DIEGO, CA	639.7	626.5	639.0
BOSTON BACKBAY, MA	625.7	381.8	389.4
AUTO TRAIN SANFORD, FL	616.8	710.4	724.6
RICHMOND, VA	609.8	738.0	752.8
ATLANTA, GA	576.0	628.8	641.3
MIAMI, FL	553.2	570.5	581.9
KANSAS CITY, MO	549.9	594.0	605.8
PITTSBURGH, PA	519.8	531.8	542.4

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
SALT LAKE CITY, UT	512.2	488.6	498.4
LORTON, VA	491.6	558.3	569.5
ORLANDO, FL	472.7	480.8	490.4
SPRINGFIELD, MA	468.1	578.6	590.1
ST. LOUIS, MO	446.1	452.3	461.3
NEW CARROLTON, MD	425.3	506.1	516.2
MILWAUKEE, WI	423.6	487.5	497.2
NEW LONDON, CT	412.3	326.4	332.9
HARTFORD, CT	397.4	357.4	364.5
SPOKANE, WA	396.4	391.0	398.9
SAN FRANCISCO, CA	390.5	360.4	367.7
ALBUQUERQUE, NM	370.5	340.9	347.7
SAVANNAH, GA	367.6	349.9	356.9
ROCHESTER, NY	359.3	389.3	397.1
SACREMENTO, CA	356.3	391.3	399.1
ALEXANDRIA, VA	339.2	375.5	383.0
TAMPA, FL	335.6	329.4	336.0
DETROIT, MI	328.0	298.0	304.0
CHARLESTON, SC	321.3	328.2	334.8
SYRACUSE, NY	309.0	320.5	326.9
MARTINEZ, CA	306.9	297.7	303.6
DEPEW, NY	274.9	275.7	281.2
FLORENCE, NC	274.5	275.3	280.8
HOUSTON, TX	264.5	321.9	328.4
SAN JOSE, CA	250.6	287.9	293.7
SANTA ANA, CA	243.3	236.3	241.0
BOSTON ROUTE 128, MA	241.4	253.7	258.8
BWI AIRPORT, MD	238.2	275.5	281.0
FULLERTON, CA	235.6	256.1	261.2
WEST PALM BEACH, FL	235.2	234.9	239.6
OMAHA, NE	235.0	219.6	224.0
DALLAS, TX	234.3	316.7	323.0
DEARBORN, MI	233.8	248.1	253.1
SPRINGFIELD, IL	232.1	237.5	242.3
SAN ANTONIO, TX	231.2	268.4	273.7
LANCASTER, PA	230.7	235.3	240.0
CLEVELAND, OH	230.1	122.6	125.1
TACOMA, WA	228.9	319.5	325.9
FRESNO, CA	228.2	214.7	219.0
UTICA, NY	224.0	214.1	218.4
DEL MAR, CA	222.1	227.1	231.6
FT. LAUDERDALE, FL	221.1	226.8	231.3

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
ANN ARBOR, MI	220.7	244.5	249.4
OCEANSIDE, CA	219.5	227.9	232.4
EUGENE, OR	214.2	267.1	272.4
HOLLYWOOD, FL	214.0	218.3	222.7
DEERFIELD BEACH, FL	213.7	202.3	206.4
OXNARD, CA	212.2	207.7	211.8
CHAMPAIGN-URBANA, IL	211.4	206.6	210.7
LAS VEGAS, NV	210.6	207.0	211.2
BAKERSFIELD, CA	203.3	216.3	220.7
CARBONDALE, IL	195.9	186.7	190.5
COLUMBIA, SC	192.8	204.8	208.9
RALEIGH, NC	191.0	189.2	193.0
WHITEFISH, MT	189.9	179.5	183.1
MEMPHIS, TN	189.1	212.8	217.0
FLAGSTAFF, AZ	186.0	172.2	175.7
INDIANAPOLIS, IN	185.6	142.0	144.9
SAN BERNARDINO, CA	183.6	159.9	163.1
HAMMOND, IN	180.1	193.2	197.1
RENO, NV	179.2	165.0	168.3
SAN LUIS OBISPO, CA	178.4	217.8	222.2
FAYETTEVILLE, NC	177.0	172.0	175.4
KALAMAZOO, MI	175.6	208.8	213.0
PAOLI, PA	174.9	227.3	231.9
SANTA BARBARA, CA	167.8	197.2	201.1
ANAHEIM, CA	167.5	176.9	180.5
UNMANNED - CHICAGO	164.7	144.8	147.7
JOLIET, IL	163.7	189.7	193.5
LITTLE ROCK, AR	162.2	189.1	192.9
BLOOMINGTON, IL	161.2	155.2	158.3
CHARLOTTESVILLE, VA	161.1	197.4	201.4
GALESBURG, IL	160.9	144.1	147.0
ALTOONA, PA	159.2	180.9	184.5
TOLEDO, OH	157.4	149.0	151.9
ATLANTIC CITY, NJ	156.5	535.4	546.1
SCHENECTADY, NY	156.3	178.5	182.1
MATTOON, IL	153.3	138.6	141.4
FT. WAYNE, IN	151.5	151.5	154.5
JACKSON, MI	151.4	181.2	184.9
GLENDALE, CA	151.3	171.2	174.6
ALTON, IL	149.1	141.3	144.2
PASADENA, CA	148.3	131.9	134.6
NILES, MI	146.0	159.1	162.3

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
RHINECLIFF, NY	145.0	154.2	157.3
GLENVIEW, IL	144.6	144.8	147.7
DAVIS, CA	143.9	144.5	147.4
BATTLE CREEK, MI	141.6	172.6	176.1
ST. PETERSBURG, FL	140.7	130.5	133.1
POMONA, CA	140.1	136.5	139.2
WINTER HAVEN, FL	139.8	141.7	144.5
ROCKY MOUNT, NC	138.8	188.9	192.7
WORCESTER, MA	138.4	146.2	149.1
HANFORD, CA	138.0	142.2	145.0
JOHNSTOWN, PA	137.6	147.2	150.1
BUFFALO, NY	137.3	134.0	136.6
TOPEKA, KS	137.1	148.6	151.6
KINGSTON, RI	136.9	127.4	130.0
CENTRALIA, WA	136.8	131.5	134.1
HUDSON, NY	136.5	169.9	173.3
VANCOUVER, WA	135.8	127.0	129.6
KIRKWOOD, MO	135.4	134.3	137.0
CINCINNATI, OH	135.3	107.8	110.0
WINTER PARK, FL	135.3	131.3	133.9
PHOENIX, AZ	133.1	119.0	121.4
PETERSBURG, VA	131.8	139.2	141.9
JEFFERSON CITY, MO	129.3	158.5	161.7
MINOT, ND	125.5	151.4	154.4
EL PASO, TX	125.0	141.2	144.0
WHITE RIVER JCT., VT	123.8	70.6	72.1
SHELBY, MT	123.3	144.2	147.1
JACKSON, MS	122.4	119.6	122.0
BOISE, ID	121.6	103.7	105.8
PASCO, WA	118.9	108.7	110.9
NEWTON, KS	117.1	112.9	115.1
GLENWOOD SPRINGS, CO	115.8	96.5	98.4
BIRMINGHAM, AL	114.0	158.5	161.6
HAVRE, MT	110.7	121.6	124.0
TUCSON, AZ	110.7	117.7	120.1
STOCKTON, CA	110.5	103.1	105.2
AUSTIN, TX	110.5	139.8	142.6
LINCOLN, NE	110.4	103.1	105.2
KLAMATH FALLS, OR	105.5	131.5	134.1
GRAND JUNCTION, CO	105.4	108.1	110.2
POCATELLO, ID	104.0	97.1	99.0
NEWPORT NEWS, VA	103.4	122.7	125.2

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
OTTUMWA, IA	103.1	98.4	100.4
CLEARWATER, FL	102.8	128.8	131.4
SALEM, OR	102.7	105.6	107.7
FT. WORTH, TX	101.6	204.9	209.0
LIMA, OH	101.5	100.0	102.0
UNMANNED - SEATTLE	101.1	75.6	77.1
DEVILS LAKE, ND	100.7	100.1	102.1
UNMANNED - WASHINGTON	100.7	93.1	95.0
GREENSBORO, NC	100.2	100.6	102.6
WILLISTON, ND	100.0	102.0	104.1
FARGO, ND	99.6	105.3	107.4
GRAND FORKS, ND	99.0	109.2	111.3
GARDEN CITY, KS	96.9	98.0	100.0
OCALA, FL	96.7	93.2	95.1
CHARLESTON, WV	96.4	114.1	116.4
CANTON, OH	96.0	119.3	121.7
HUNTINGTON, WV	95.6	102.3	104.3
SEBRING, FL	95.0	84.3	86.0
FLINT, MI	94.1	106.4	108.6
LAJUNTA, CO	93.9	96.9	98.8
HASTINGS, NE	93.0	99.3	101.3
LACROSSE, WI	92.8	86.6	88.4
WILLIAMSBURG, VA	92.5	130.7	133.4
MONTREAL, PQ	92.0	2.5	2.6
RIVERBANK, CA	91.6	67.2	68.5
FT. MADISON. IA	91.0	100.2	102.2
MERIDEN, CT	90.4	90.9	92.7
SOUTH BEND, IN	88.1	90.2	92.0
LAMY, NM	87.6	84.7	86.4
EVERETT, WA	87.5	88.6	90.4
PORT HURON, MI	85.4	77.9	79.4
SALINAS, CA	84.6	73.3	74.8
CHARLOTTE, NC	83.9	99.8	101.8
WALDO, FL	82.8	82.4	84.1
HAMMOND, LA	81.7	78.7	80.2
LANSING, MI	80.8	86.1	87.8
ALBANY, OR	80.6	83.8	85.5
DELAND, FL	78.2	77.4	79.0
NORTH PHILADELPHIA, PA	77.9	93.2	95.0
EDMONDS, WA	76.2	77.4	78.9
LYNCHBURG, VA	76.2	94.4	96.3
BURLINGTON, IA	76.0	83.1	84.8

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
CHILLICOTHE, IL	75.5	72.9	74.3
ELKHART, IN	74.2	94.3	96.2
DELRAY BEACH, FL	74.2	74.7	76.2
MERCED, CA	73.1	55.0	56.1
NIAGARA FALLS, NY	73.1	72.8	74.3
MCCOMB, MS	72.0	78.0	79.6
LAKELAND, FL	71.8	71.6	73.1
WINONA, MN	71.1	76.8	78.4
UNMANNED - BOSTON	71.0	113.9	116.2
HOMEWOOD, IL	70.1	71.4	72.8
CENTRALIA, IL	69.6	72.3	73.7
SARATOGA SPRINGS, NY	68.0	67.5	68.8
SANFORD, FL	68.0	67.8	69.1
LONGVIEW, TX	67.7	70.3	71.7
AMSTERDAM, NY	65.7	68.3	69.7
TEXARKANA, AR	64.7	78.3	79.8
TEMPLE, TX	63.8	48.9	49.9
COATSVILLE, PA	63.7	67.2	68.6
UNMANNED - DETROIT	60.7	50.3	51.3
NAPERVILLE, IL	58.6	65.2	66.5
PRINCE, WV	56.2	62.1	63.4
RICHMOND, CA	55.8	51.4	52.5
UNMANNED - PHILADELPHIA	55.3	46.8	47.8
UNMANNED - NEW ORLEANS	51.0	70.5	71.9
DOWNINGTOWN, PA	48.7	46.8	47.7
WESTERLY, RI	47.1	53.0	54.1
SOUTHERN PINES, NC	46.7	49.6	50.6
WALLINGFORD, CT	43.7	47.8	48.7
SUB STA PHILADELPHIA, PA	42.4	47.1	48.1
UNMANNED - LOS ANGELES	34.8	12.8	13.1
GLACIER PARK, MT	29.9	34.8	35.5
TUSCALOOSA, AL	24.2	0.0	0.0
UNMANNED - OAKLAND	17.1	32.9	33.6
MONTPLIER JUNCTION, VT	15.9	0.0	0.0
ESSEX JUNCTION, VT	15.4	0.0	0.0
UNMANNED - MIAMI	12.4	11.1	11.3
ROME, NY	12.3	0.0	0.0

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ALL OTHER STATIONS	FY89 ACTUALS	FY90 BUDGET	FY91 PROJECTED
ST. ALBANS, VT	1.0	0.0	0.0
HUTCHINSON, KS	0.2	0.0	0.0
YEMASSEE, SC	0.0	53.3	54.4
MONTGOMERY, AL	0.0	76.5	78.1
MOBILE, AL	0.0	76.5	78.1

MARKETING INITIATIVES

Mr. COUGHLIN. What are the three most important initiatives in Amtrak's marketing plan and why?

[The information follows:]

The three most important initiatives in Amtrak's marketing plan are: (1) The introduction of an air/rail program with a major airline to promote long-distance trips using rail in one direction and air in the other to significantly broaden the general appeal of our long-distance service. (2) Enhanced yield management capabilities, permitting us to further segment the market according to price sensitivity, and optimize revenue through control of fare inventories. (3) Development of the Mature Market Program through database marketing capabilities. The mature market constitutes 33 percent of the U.S. population, with 50 percent of U.S. disposable income. Its willingness to travel during Amtrak's off-peak periods reinforce the desirability of this group as a marketing target.

These capabilities enhance significantly our ability to increase demand in targeted ways and to convert that demand to maximum revenue.

Mr. COUGHLIN. What new marketing ideas are you planning over the next few years, as you make your final drive toward self-sufficiency?

Mr. NORMAN. Mr. Coughlin, we have a number of things that are planned, and I'll just give you some ideas of them and we'll submit others for the record.

We are introducing an aerial program with a major airline to promote long-distance trips whereby we will use rail in one direction and air in the other and the tests that we've done on this earlier show that this will work very well and we expect this to go very well.

We also are getting more heavily into direct mail marketing and promotion programs aimed at a group that is becoming one of the fastest and most travelling groups in our society and that is the senior citizens, the mature market, and primarily those 55 years and older, to build ridership during the off peak period. And so we're making great efforts there.

One of the things that we're doing, which I mention as a matter of interest, is with trying to get more emphasis on Discover America. We in conjunction with National Geographic Magazine are sponsoring a National Geographic Society Geography Bee with more than 35,000 schools around the country participating and we'll end up having a geography bee champion, for which Amtrak will be a major sponsor.

There are other things which we are doing such as movies in our coaches, improved custom class service, testing of conference rooms in special cars. We have a large list of them, some of which are being phased in and we are already starting some this year.

Mr. COUGHLIN. Your "Kids Draw Amtrak" is a wonderful program.

How does Amtrak's marketing strategy include a change in advertising or promotional emphasis if there is a downturn in the U.S. economy?

Mr. NORMAN. We have a general advertising and promotion plan, Mr. Coughlin, which changes based upon various conditions. And a classic example of it is that we had seen October and November revenues and ridership at record rates and we saw a softening of the market in December and January, and we completely reoriented our plan and put more emphasis in our advertising and promotion and reorientation for those particular months using monies that we would have spent later on so that we can get through this particular period.

So therefore our overall strategy is traditionally to try to put the emphasis on the off peaks when we need more people there and hope that can sustain itself during the peak directions.

Mr. **Coughlin**. We sometimes see Amtrak trains shown in the television commercials and print media of other corporations. Do you receive royalties from such advertising, and if so, what are the normal arrangements?

Mr. **Norman**. Yes, we do, sir. In fact, we encourage that in any which we can, as long as they spell our name properly. We also get monies for this as well as other benefits. For example, in order to use our stations they are willing to paint them and do some other sort of things so from a net benefit of the revenues that come, the exposure that we have from promotions, we also get some benefits of getting some outside assistance in sprucing up and renovating our stations in the process.

Mr. **Coughlin**. What have you received in total royalties from such arrangements?

Mr. **Norman**. I think that the number is around approximately $100,000 annually.

MARKETING AND RESERVATION EXPENSES

Mr. **Coughlin**. Please update for the record the marketing and reservation expense data as shown on page 404 of last year's hearing record.

[The information follows:]

FISCAL YEAR 1991 FEDERAL GRANT JUSTIFICATION MARKETING AND RESERVATIONS

[In millions of dollars]

	Fiscal year		
	1989 actual	1990 projection	1991 estimate
Programs:			
Sales	12.9	13.3	13.4
Advertising/promotion	43.0	44.9	45.3
Reservations	54.5	58.7	57.7
Travel agent commissions	31.7	36.6	37.6
Credit card commissions	8.6	9.5	9.5
System access fees	4.4	5.5	6.0
Support	17.8	17.8	17.8
Total	172.9	186.2	187.3

Noe.—FY91 levels are in constant fiscal year 1990 dollars.

Mr. **Coughlin**. Your 1990 expenses are significantly higher than you projected last year ($186 million compared to $167 million). Why is this?

Mr. **Hayward**. Essentially, the $167 million number that we're looking at here was before inflation, from our last year's display. So, if you inflated that as we have for our 1990 program, you would find that that number would be something up in the $170 range, so it isn't as bad as this looks.

But in addition, one of the significant impacts on this line of expenses is that we use a significant number of travel agents and we have a significant amount of credit card business. So when our sales go up, we have an unavoidable added expense that we are naturally very happy to have and that goes into this particular line.

FREQUENT RIDER FARES

Mr. COUGHLIN. You have been negotiating with some of the major airlines to add Amtrak onto their existing frequent flyer programs. How much frequent rider service are you offering today, and do you expect further advances?

Mr. NORMAN. We continue to explore the possibilities of possible tie-ins with one or more of the airlines under these programs in which they would gain mileage points for their frequent fliers. But one of the reasons why we have gone at this very cautiously is that we're trying to weigh the cost of such a program administratively as well as financial against the potential gains.

And when we become confident that such a program would be productive, we will develop it. We have no firm plans to do so at the present, but will continue to explore the issue.

RESERVATION SYSTEM IMPROVEMENTS

Mr. COUGHLIN. What is Amtrak doing to improve the quality of its telephone reservations service?

[The information follows:]

Reservation Sales is continually looking for ways to improve both the quality and cost-effectiveness of its telephone reservation service.

Reservation Sales' goal is to answer 95 percent of all calls offered and 85 percent of all calls in 20 seconds or less. On an ongoing basis, we evaluate staffing needs and day-to-day scheduling to assure that these goals are met. This year, with call volume up 6 percent over 1989, we have handled 95.3 percent of all calls offered (on goal) and have improved service level from 62 percent to 68 percent. The average speed of answer is 33 seconds, a 7 second improvement over 1989.

In FY90, Reservation Sales augmented its supervisory staff to provide more consistent monitoring of Reservation Sales Agents' sales calls. We also implemented a dialogue training program. These programs will continue in FY91.

Reservation Sales continues to experiment with automated response systems in the Northeast Corridor to provide basic schedule and fare information for unreserved services through the use of touch-tone telephones. Reaction to this product has been good, and we plan to continue to offer this service in FY91. Unit costs for this service average 68 cents, compared to $1.00 to provide similar services using Reservation Sales Agents.

The Reservation Sales Offices reached capacity in FY89. In order to handle anticipated volume growth, we began taking calls in a contracted reservation office early last summer. This action allowed Amtrak to expand capacity quickly without incurring up-front capital expenses. Service levels have been excellent, and unit costs are 30 cents per call lower than similar calls handled in Amtrak facilities. For the immediate future, we plan to handle "growth" volume to the contractor facility.

GENERAL SUPPORT EXPENSES

Mr. COUGHLIN. Please update for the record the breakdown of "general support" costs as shown on page 407 of last year's hearing record.

[The information follows:]

DETAIL ANALYSIS OF GENERAL SUPPORT

[In fiscal years]

	In millions of dollars			Manpower		
	1989	Estimated 1990	Projected 1991	1989	Estimated 1990	Projected 1991
Information systems	$34.3	$38.4	$38.0	296	319	307
Police and security	17.8	18.6	18.3	378	378	378
Revenue acct./field payroll operations	28.4	27.1	26.9	357	371	380
Claims	5.5	6.3	6.2	87	92	89
Personnel/training	10.1	10.9	10.8	163	162	163

Note.—Fiscal year 1991 costs are in constant fiscal year 1990 dollars.

INSURANCE AND INTEREST EXPENSES

Mr. COUGHLIN. Please provide for the record a breakdown of insurance and interest expenses (personal liability, property damage insurance, and interest expense) for fiscal years 1989, 1990 and 1991.

[The information follows:]

[In millions of dollars]

	Actual fiscal year 1989	Estimates fiscal year 1990	Projected fiscal year 1991
Real estate Taxes	1.2	0.8	0.8
Purchased insurance	5.9	8.0	8.0
Passenger claims	13.7	15.4	13.8
Employee claims	45.6	51.2	52.8
Crossing claims and other	13.4	15.0	15.0
Interest	3.5	11.2	16.0
Total	83.3	101.6	106.4

DEPRECIATION EXPENSES

Mr. COUGHLIN. Your fiscal year 1990 depreciation is estimated at $176 million, which is almost $10 million higher than estimated for 1990 last year. Why?

[The information follows:]

The difference between last year's estimate for FY90 of $166.6 million and this year's estimate of $176.1 is primarily due a $6.6 million increase in road assets, due to greater capitalization of NECIP properties than originally anticipated, and $2.6 million associated with depreciation on the new Horizon Cars.

DEPRECIATION COSTS

Mr. COUGHLIN. Please update for the record the data on depreciation costs as shown on page 409 of last year's hearing record.

[The information follows:]

DEPRECIATION COSTS

[In millions of dollars]

	Fiscal year 1990 estimate			Fiscal year 1991 projection		
	Units	Value	Depreciation	Units	Value	Depreciation
Total depreciation			176.1			180.1
Road		2810.4	98.6		3058.9	108.5
Shop and machinery		19.7	.9		22.2	1.3
Amfleet	632	375.6	13.7	632	375.9	13.7
Horizons	103	101.4	4.6	103	113.4	5.7
Locomotives	408	400.6	17.9	415	409.3	18.4
Conventional cars	741	178.1	13.5	801	203.1	3.7
Capitoliners [1]	55	42.6	0	37	45.4	0
Push/pull cars	19	22	.9	24	29.6	1.1
Turbine cars	65	71.1	3.1	65	76.8	3.4
Superliner cars	282	356.1	13.4	282	362.5	13.6
Auto carriers	64	4.2	.3	84	4.4	.3
Other (includes R&D and viewliners)	3	69	9.2	3	84.4	10.4

[1] All Capitoliners equipment is fully depreciated.

Notes.—The asset costs are depreciated on a composite straight-line basis over their estimated useful lives as determined by the company based guidelines established by the Interstate Commerce Commission. Projection for asset values based on estimated mid-year levels as of 2/1/89 and 2/1/90.

Mr. COUGHLIN. You are estimating an increase of $4 million in depreciation in fiscal year 1991 presuming completion of equipment upgrades, receipt of new equipment and additional capitalization of the NEC. Please explain in detail how this $4 million was calculated, and tell us whether each of the projects is still on schedule to justify that level of depreciated expense next year.

[The information follows:]

Depreciation expense is developed based on a composite straight-line basis over the estimated useful lives of the assets included in each line item categories. Projections for asset values are based on estimated mid-year levels of that category of asset. At this time, all capitalization efforts are on schedule and justify the estimated level of depreciated expense for next year. We are currently projecting an 8.8% increase in the value of Road assets due to new capitalization of the NEC and an 11.8% increase in the value of the Horizon cars due to receipt and capitalization of the new Horizon car order.

SALARY/WAGE INCREASES

Mr. COUGHLIN. Please update for the record the table on salaries shown on page 410 of last year's hearing record by adding a column for 1990.

[The information follows:]

AVERAGE WAGE INCREASE

[In percent]

	1986	1987	1988	Total
Management	0.3	3.4	5.2	8.9
Non-management	1.2	3.9	3.8	8.9

Note.—1989 and 1990 date are incomplete at this time as collective bargaining continues on this subject.

Mr. COUGHLIN. What salary increases are you assuming for fiscal year 1991, for both management and non-management personnel?

Mr. **Claytor**. Since labor/management negotiations over work rule changes and compensation are still going on, we can't be very specific about any increases for our labor. Overall dollar increases for both management and union employees with be modest, within the limits of overall inflation allowances.

This is like the question I used to always get when I was with Southern from the security analysts about what our wage increases were going to be this year? And I would always have to say, if I knew, I wouldn't tell you, because if it became public, it would become the floor on which all of our negotiations would have to depend. So we really don't know.

Mr. **Lehman**. Mr. Coughlin, would you yield? How does the salary of a locomotive engineer compare to an airline pilot?

Mr. **Claytor**. I don't know what airline pilots make.

Mr. **Hayward**. They are making a lot more than some airline pilots today——

Mr. **Lehman**. What is the average salary of a locomotive engineer?

Mr. **Claytor**. About $50,000 to $55,000 a year in salary; about $70,000-$75,000 with benefits.

Mr. **Lehman**. Thank you.

Mr. **Claytor**. The average of all of our employees is in the $40,000 to $45,000 area, isn't it, John?

John Lange. The total compensation per employee on the average is $45,400, including benefits.

Mr. **Claytor**. That's the average employee, and that includes your health and welfare benefits—$40,000 to $45,000 averaged from the clerk right through the locomotive engineer.

Mr. **Lehman**. An engineer doesn't make that much more than the clerk.

Mr. **Claytor**. Well, we were talking salary, direct salary on the engineer. He'll make considerably more., with benefits—$70-$75,000.

LABOR NEGOTIATIONS

Mr. **Coughlin**. What is the increase requested by labor unions in the ongoing negotiations, and what would be the financial impact on Amtrak's 1991 budget should labor's position prevail?

Mr. **Claytor**. The union has requested increased pay rates at parity with the freight railroads. As you may remember, pay rates particularly for the non-operating employees, were held down in increases so that they've been running 8 to 12 percent below the wages paid to the freight railroads. They want that immediately restored. That would cost Amtrak $84 million a year.

They are also asking for increases over and above that that would amount to $86 million in additional dollars a year. They want improvements to the health and welfare plan. The total impact on wages alone would be $160 million the first year and over $700 million for the next three years if their requests were granted.

LEGAL CLAIMS SUPPORT: FELA EXPENSES

Mr. COUGHLIN. What percentage of your 1991 G&A expenses are for legal/claims support, and how much of that amount is for FELA cases?

[The information follows:]

Legal/claims support represents approximately 27 percent or $11.3 million of Amtrak's FY91 General & Administrative expenses. Of this amount, $5 million is legal/claims support for employee FELA claims.

EMPLOYMENT AND ADMINISTRATIVE EXPENSES

Mr. COUGHLIN. Please update for the record the tables on Amtrak employment and administrative costs, as shown on page 411 of last year's hearing record.

[The information follows:]

GENERAL AND ADMINISTRATIVE EXPENSES

	Amtrak employment—fiscal year					
	1989		1990		1991	
	Line	Staff	Line	Staff	Line	Staff
Management	1,890	766	2,048	766	2,010	810
Agreement	19,290	134	19,894	134	20,110	140
Total	21,180	900	21,942	900	22,120	950

MANAGEMENT EMPLOYEES

[Fiscal Year 1989 average salary by grades]

General title	Grade	Range		Average salary
		Minimum	Maximum	
Pres./Exec staff:				
AVP/Treasurer/Sr Professionals	31	69,600	88,200	76,500
Sr Dir/ACMO/Gen Mech Supt/Assoc Gen Counsel	30	53,600	85,100	70,100
Sr Dir/Dir/Transp Supt I Mech Supt I/Supt Car Maint/Asst Gen Counsel	29	50,400	81,900	62,700
Dir/Dist Supt/Dist Mgr/Prin Tech Advisor	28	47,300	78,800	59,100
Mgr Maint Fac II/Ast. Transp Asst Div Engr/Proj Engr	27	44,100	75,600	52,900
Dis Sales Mgr/Div Mgr. Lab Rel/Transp Mgr I	26	38,600	60,500	49,100
Transp Mgr II/Dist Supv/Rd Frman/Engr T&S	25	36,600	58,200	44,700
Gen Supv Mat Cntl/Asst Transp Mgr/Gen Frman I/Gen Supv Stations	24	33,900	54,800	40,800
Gen Supv/Sr Analyst	23	29,800	48,800	35,500
Supv/Analyst	22	26,600	43,500	32,900
Administrator/Specialist Analyst	21	23,800	38,300	30,100
Specialist/Clerk	20	21,000	31,400	26,700
Administrative Assistant		23,700	41,500	32,400
Exec/Legal Secretary		19,800	33,900	27,800

MANAGEMENT TO SUPPORT STAFF RATIO

Mr. COUGHLIN. What is the ratio of clerical/support staff to total management staff, and how does this figure compare to past years?

Mr. CLAYTOR. One to eleven. Our current ratio of supervisory to non-supervisory employees is approximately 1 to 11.

ACTUAL VERSUS BUDGETED REVENUE

Mr. **Coughlin**. Please update for the record the data on actual-versus-budgeted revenue, as shown on page 414 of last year's hearing record, by dropping 1985 and 1986 and adding 1990 and 1991 projections.

[The information follows:]

ACTUAL VERSUS BUDGETED REVENUE

[In millions of dollars]

	Fiscal year 1987		Fiscal year 1988		Fiscal year 1989		Fiscal year 1990	Fiscal year 1991
	Actual	Budget	Actual	Budget	Actual	Budget	Budget	Projection
Passenger related revenue	656.1	642.5	765.5	685.1	869.8	802.1	977.6	1063.7
MBTA commuter service	46.8	51.7	76.2	74.9	78.1	78.0	82.3	93.1
Commuter operating	62.5	61.4	60.8	61.6	77.1	65.4	75.3	78.8
403 B service	10.3	11.2	9.2	11.5	8.3	12.6	13.0	15.8
Mail/baggage/express	32.6	32.7	34.9	34.2	37.0	36.7	42.7	53.9
Real estate and Oper. Dev.	24.1	24.0	30.7	38.8	51.9	49.2	50.5	57.3
Freight operating	28.9	36.0	27.1	30.0	21.2	22.6	21.3	22.4
Interest	19.8	18.1	19.7	19.3	32.4	21.8	28.7	32.2
Other	92.4	109.8	82.6	89.8	93.3	91.8	80.3	82.8
Total	973.5	987.4	1,106.7	1,045.2	1,269.1	1,180.2	1,371.7	1,500.0

MISCELLANEOUS REVENUE

Mr. **Coughlin**. Please also update for the record the data on miscellaneous revenue shown on page 415 of last year's hearing record.

[The information follows:]

MISCELLANEOUS REVENUE

[In millions of dollars]

	1987 actual	1988 actual	1989 actual	1990 budget	1991 estimate
Safe harbor revenue	27.2	13.8	14.1	14.6	12.6
Reimbursable equipment maintenance	1.6	.8	.4	.6	.6
Reimbursable maintenance of way	25.8	37.5	62.1	48.6	50.9
Reimbursable transportation revenue	13.0	9.4	2.6	3.9	4.1
Other	6,9	4.8	14.1	12.6	14.6
Total	74.5	66.3	93.3	80.3	82.8

MAIL BAGGAGE/EXPRESS REVENUES

Mr. **Coughlin**. You are projecting a large increase in revenues from mail baggage and express services in fiscal year 1991—from $42.7 million to $53.9 million. Where will these increases come from?

Mr. **Norman**. Mr. Coughlin, part of the $11.2 million will be due to a rate increase, which is about $2 million of that; we have new material handling cars that we indicated earlier coming on board, we expect about $7 to $8 million incrementally to come from that.

And also we've got two new mail-handling facilities, which greatly facilitates our ability to obtain new contracts at Springfield and at Los Angeles, and we expect these to generate about another one to two million. So cumulatively, we expect a total increase of about $11.2 million.

REAL ESTATE AND OPERATIONS—REVENUES

Mr. COUGHLIN. Revenues from "real estate and operations" is likewise expected to increase in fiscal year 1991, from $50.5 million to $57.3 million. Would you also explain this projected increase?

Mr. NORMAN. Yes, sir. This increase is primarily due to the fact that we have an RELA site in New York from which we expect to receive some development income. In Springfield, Princeton Junction, and at 30th Street Station we also expect to sell properties that is not directly necessary for Amtrak's business that will be another $1.6 million. So that's where all of them will come from, sir.

PASSENGER-RELATED REVENUE

Mr. COUGHLIN. In fiscal year 1991, passenger-related revenue is 70.9 percent of total revenues. How does that number compare to each of the four previous fiscal years?

[The information follows:]

Passenger related revenue

Fiscal year:	*Percent*
1987	67.4
1988	69.2
1989	68.5
1990	71.3
1991	70.9

CHASE, MD ACCIDENT CLAIMS

Mr. COUGHLIN. Please update us on the status of claims relating to the Chase, Maryland, accident, and include a comparison of budgeted liability reserves to actual and outstanding potential liabilities.

[The information follows:]

Recently the last outstanding Chase accident claim was settled by Conrail for $5.5 million. This settlement brings total Chase outlays to approximately $100 million. The issue of responsibility for paying these amounts continues in dispute between Amtrak and Conrail.

Amtrak has made provisions through accruals and purchased insurance to cover its exposure up to a limit of $100 million. Should the ultimate resolution require Amtrak to reimburse Conrail for its excessively high settlements, any amounts over $100 million would be an unbudgeted charge to current operations.

CAPITAL FUNDING NEEDS

Mr. COUGHLIN. Please also update the table on revenue reserved for capital shown on page 416 of last year's hearing record.

[The information follows:]

REVENUE RESERVED FOR CAPITAL DETAIL

[Dollars in millions]

	Fiscal year			
	1988 actual	1989 actual	1990 budget	1991 estimate
Revenue enhancement projects	7.5	6.6	9.2	10.0
Safe harbor leases	13.8	14.1	14.6	12.6
Real estate development projects	1.2	1.2	4.3	14.3
Total	22.5	21.9	28.1	37.0

Totals may not foot due to rounding.

REVENUE RESERVED FOR CAPITAL

Mr. COUGHLIN. Please also update the table on restricted revenue shown on page 416 of last year's hearing record, and explain what it means for such revenue to be restricted.

[The information follows:]

RESTRICTED REVENUE

[Dollars in millions]

	Fiscal year			
	1988 actual	1989 actual	1990 budget	1991 estimate
Revenue enhancement projects	7.5	6.6	9.2	10.0
Safe harbor leases	13.8	14.1	14.6	12.6
Real estate development projects	1.2	1.2	4.3	14.3
Equipment purchase provision			5.3	6.2
Self-Insurance	5.8	6.6	6.4	
Long Island Railroad		6.3	14.9	14.2
Contractually obligated revenue	2.5	2.1	1.5	2.7
Asset disposal	7.1	18.1		
Total	37.9	55.0	56.2	60.0

Restricted revenue is revenue that may be used only for purposes other than Amtrak operations. Examples of purposes for which restricted revenue may be used are: self-generated capital, self-insurance, repayment of principal on borrowing, and recommitment of funds to specific programs on which there is a contractual obligation to reinvest funds (e.g., Long Island Railroad joint venture project).

CAPITAL REQUEST BREAKDOWN

Mr. COUGLIN. For the record, please provide a detailed breakdown of Amtrak's fiscal year 1991 capital budget request of $188 million.

[The information follows:]

The major programs comprising Amtrak's minimum FY91 capital requirements of $500 million are:

Rolling Stock—$410 million.

New Passenger Car Acquisition—$310 million. Funds the phase II requirement of 61 Superliners and, possibly, phase III's requirement of 39 cars, and 50 Viewliners.

Locomotive Acquisition—$40 million. Funds 25 new locomotives.

Other equipment programs—$50 million. Funds various ongoing modification programs to address issues such as safety, waste disposal and service quality.

Maintenance Facilities—$14 million. Funds projects at locations such as Beech Grove, Indiana; Bear and Wilmington, Delaware; Sunnyside, New York; Philadelphia, Pennsylvania; Washington, D.C. and Los Angeles, California.

Right-of-Way—$23 million. Maintains the Northeast Corridor and provides funding for Amtrak's final share in a joint rail replacement project in Southern California.

Information and Communication Systems—$14 million. Continues the Arrow Terminal Replacement program for reservations and ticketing and upgrades existing IBM mainframe equipment to achieve economies of scale and provide adequate capacity.

Station Improvements—$14 million. Provides funds to improve service quality, safety and handicapped accessibility at stations and commissaries.

Other—$26 million. Provides Amtrak's share of a joint project with MTA for a new Control Center office in New York and funding for the Los Angeles Reservation Sales office relocation.

We expect that the $188 million requested will be used for the new passenger car and locomotive acquisitions as well as for some of the information and communication systems projects. However, the amount of federal grant funds required for a particular project can not be determined until the financing arrangements are finalized.

PRIVATE FUNDING COMMITMENTS

Mr. COUGHLIN. Your request assumes $275 million in outside financing. What sources of financing are envisioned and how many firm commitments do you have today?

[The information follows:]

Amtrak has worked hard over the past few years to establish itself in the private financial marketplace and has been successful in developing good working relationships with various institutional investors.

As a matter of course, on new equipment proposals, we requested that the vendors include financing proposals as part of their bids. We subsequently evaluated all financing alternatives available in order to secure the most favorable terms.

No commitments exist at the present time for the $275 million in financing required by this plan, as the plan is subject to appropriation of the full $684 million in Amtrak's FY91 grant request. We do believe that vendor financing will be available up to 50% of the order but final financing arrangements will be made concurrent with placing of orders and delivery of equipment.

EQUIPMENT PURCHASES

Mr. COUGHLIN. Please update for the record the data on equipment purchases shown on page 425 of last year's hearing record by updating data for fiscal year 1989 and adding data for fiscal years 1990 and 1991.

[The information follows:]

In FY89 the following new equipment was purchased:

[Dollars in millions]

Number and type	Unit cost	Total
86 Horizon fleet coaches	1.0	86.0
18 Horizon fleet dinettes	1.2	21.6
70 Material handling cars	.4	24.0
Total new equipment purchases fiscal year 1989		131.6
In fiscal year 1990, the following equipment purchases are projected:		
75 Superliner cars	2.2	165.0
50 AMD103-DC locomotives	1.6	80.0
Total new equipment purchases fiscal year 1990		245.5

[Dollars in millions]

Number and type	Unit cost	Total
In fiscal year 1991, the following equipment purchases are projected:		
61 Superliner cars	2.2	134.2
50 Viewliner cars	1.8	90.0
Total new equipment purchases fiscal year 1991		224.2

All 86 Horizon Fleet coaches and 18 Horizon Fleet Dinettes have been received. The delivery of 70 Material Handling Cars should be completed by April 1990.

If an order can be placed in FY90 for 75 Superliners, these cars should be delivered over a two year period beginning in FY92. The 50 locomotives, if they could be ordered in FY90, should be delivered during FY92.

Assuming orders can be placed in FY91 for both car types, the second order of 61 Superliner cars will follow with cars delivered by FY95, and the first 50 Viewliners delivered in FY93.

LOCOMOTIVE PROCUREMENT

Mr. COUGHLIN. Last year, you told us that your highest priority for equipment acquisition in fiscal year 1991 would be locomotive replacement. Your actual 1991 request includes funds to replace only 25 new locomotives. Has the priority for locomotive replacement relative to other needs changed since last year?

Mr. CLAYTOR. In fact, we are currently seeking bids on 50 new locomotives from both domestic and foreign manufacturers. We plan to fund 25 with fiscal year 1990 funds and 25 with fiscal year 1991 funds based on both appropriated and requested grants.

We have just acquired six used F-40s that will be overhauled this year before being placed in service, so that would make a total of 56 engines. We still have plans, of course, eventually to replace all of our old diesel locomotives with about 268 new units. We are anxious to get the newer and more efficient alternating current traction three-phase motors in these engines as soon as possible.

Those, however, are not yet ready for order and delivery. The prototype is now being tested. We have two prototypes that are being tested at the AAR test center at Pueblo and until we can get those out and test them and be sure that everything works, we can't buy locomotives of that type.

But that's the way I hope to go with all new locomotives in the more distant future.

AC-POWERED LOCOMOTIVES

Mr. COUGHLIN. How many AC-powered locomotives are you planning to purchase, and can you quantify the expected fuel, maintenance, and other benefits of these locomotives over conventional locomotives?

[The information follows:]

We are currently proposing the intial purchase of seven AC-powered locomotives. The expected benefits over conventional locomotives include:

—Higher operating speed—125 mph
—Reduced maintenance expense of AC traction motors
—Improved operating performance from increased tractive effort
—Reduced wheel wear and improved on-time performance from higher adhesion
—Reduced fuel consumption from aerodynamic design, microprocessor control and solid state HEP system

—Improved reliability and reduced maintenance costs form microprocessor control and self-diagnostic system

With a modern, fuel-efficient engine, we are anticipating fuel savings of approximately 15 percent. On selected long-distance trips, where we may be able to substitute two higher-horsepower locomotives where we are presently operating three, we anticipate fuel savings in the region of 20 to 25 percent. We also expect significant cost savings associated with the minimized need for traction motor maintenance. Actual savings can not be more firmly projected until an adequate history is developed on these units by operating on all trains over all parts of the Amtrak system.

Mr. Coughlin. How much testing has been conducted to date on the prototypes, and how confident are you that this new technology is sufficiently mature to begin procurement?

[The information follows:]

Prototype locomotive tests at the AAR test center showed hot traction motor bearings resulting in operations limited to 50 mph. Extensive testing at the motor manufacturer (Siemens) in West Germany and at the AAR Test Center continues for coordination of operating characteristics and protective circuitry. During April, speeds will be increased to 100 mph with initial introduction into Amtrak service anticipated for the northern routes next winter.

The same component technology is in use in the European high speed trains and we are confident that by the time pre-production prototypes are completed (3-4 years), present problems will be behind us. The most important lesson we have learned so far is that the problems occur not in the hi-tech areas of obvious concern, but in more traditional areas where there is a tendency to be complacent. We would not expect production to start until late 1994 at the earliest, and we will delay production if service problems are encountered.

Since no dual-powered prototype locomotives have been built, it is uncertain what technical problems may occur.

VIEWLINER ACQUISITION

Mr. Coughlin. Last year, Amtrak was unable to provide a detailed explanation of the contract scope, funding schedule, and delivery schedule for the Viewliner acquisition. Please provide that information for the record if it is currently available.

[The information follows:]

Amtrak has not entered into a contract to purchase Viewliner equipment and hence, no funding or delivery schedule is available that Amtrak and a builder have agreed to. In evaluating the best use for the equipment capital, we determined that we could acquire equipment sooner and realize a higher return on investment by purchasing additional Superliner cars rather than new Viewliners, which are still undergoing several mechanical and accessiblity design changes.

SUPERLINER ACQUISITION

Mr. Coughlin. Please also provide your estimates of the total fleet requirements, budgetary resources, and Federal/private financing for your Superliner acquisition.

[The information follows:]

The total Superliner fleet requirement is 175 cars which we are planning to order in three phases, with the last order of 39 units to be placed in FY92. It is estimated that the total cost will be approximately $385 million. $192.5 million has been or will be requested in federal grants over the three year period with the remaining $192.5 million supplied through Amtrak self-generated funds or private financing.

Mr. Coughlin Your budget requests funds to begin the Superliner acquisition in fiscal year 1991. Why is it critical to Amtrak's service to begin that acquisition now, and how was the quantity of 115 cars in fiscal year 1991 determined?

Mr. Claytor. We have identified an eventual need for 175 Superliners, which will be acquired in three phases: 75, 65 and 39 cars.

The 115 Superliners described in Amtrak's 1991 capital request represented a mid-range financial number for a multi-year project.

Mr. COUGHLIN. What percentage of that acquisition is needed to replace existing equipment, and what percentage is for additional equipment? On what routes is the additional equipment needed?

Mr. CLAYTOR. Of the proposed 175 new Superliners, 99 Superliner cars will in effect replace 90 Heritage Fleet and 30 AMFLEET II cars on eastern long-distance trains, whose routes can handle Superliner equipment. The remaining 76 Superliner cars would be used to expand capacity on sold-out western trains, provide for selective route expansion and address existing equipment shortfalls.

So the replacements are primarily on the eastern trains where we can put Superliner cars.

Mr. COUGHLIN. Please update for the record the data on page 427 of last year's hearing record concerning your car and locomotive fleets.

[The information follows:]

	1987	1988	1989	1990
Diesel Locomotives	230	238	238	246
Electric Locomotives	59	60	66	66
Superliner cars	282	282	282	282
Amfleet I cars	484	483	483	483
Amfleet II cars	149	149	149	149
Heritage Cars	717	740	754	754
Material handling cars	73	73	73	143
Horizon cars	—	—	45	103
Viewliner cars	—	—	3	3
Turboliner cars	65	65	65	65
Self-propelled cars	61	61	61	61
Total owned leased	2,120	2,151	2,219	2,355

PASSENGER CAR AGES

Mr. COUGHLIN Please provide a breakdown of average age (in years) for each of your passenger car classes for fiscal years 1987 through 1991, and state the design life of each of those classes.

[The information follows:]

Class	Fiscal year—				
	1987	1988	1989	1990	1991
Amfleet	10	11	12	13	14
Superliner	7	8	9	10	11
Heritage	30	31	32	33	34
Horizon	0	0	0	1	2

The average age of our Heritage sleepers, coaches, diners and lounges is 37.5 years. The design life of each class is indefinite as equipment may be overhauled repeatedly to meet minimum operating specifications. The economic life of each class will vary on a case by case basis depending on the individual condition and revenue generating capacity of each unit. After 40 years, this equipment requires extensive rebuilding and parts availability is difficult which causes excessive overhaul costs and increased out-of-service time.

LOCOMOTIVE AGES

Mr. **Coughlin**. Please provide similar information on your locomotive units.

[The information follows:]

Class	Finial year—				
	1987	1988	1989	1990	1991
AEM7	6	7	[1] 7	8	9
E60	12	13	14	15	16
F40	8	9	10	11	12
P30	12	13	14	15	16
FL9	30	31	32	33	34

[1] due to acquisition of new units

The design life of each class is indefinite as equipment may be overhauled repeatedly to meet minimum operating specifications. The economic life of each class will vary on a case by case basis depending on the individual condition. The freight industry standard for locomotive life is 18-20 years. However, because of the higher performance and reliability standards required for passenger train service and the advanced technology of modern locomotives, it is estimated that it would be more economical to replace passenger service locomotives every 15-18 years.

INFORMATION AND COMMUNICATION SYSTEMS

Mr. **Coughlin**. You are requesting $13 million for upgrades to information and communications systems. Why are these funds needed in fiscal year 1991 and how will they benefit Amtrak's financial performance?

Mr. **Norman**. Mr. Coughlin, we will be using this primarily to continue our Arrow terminal replacement program which will begin in fiscal year 1990. The existing reservation and ticketing system that we have that I indicated earlier is getting up to 135,000 calls per day has already outlived their useful lives and are experiencing frequent failures, and these terminals are located at all staff stations and reservation centers, more than 1500 locations.

We're also going to upgrade some of our existing IBM mainframe equipment to achieve economy of scales through improved technology there. We have as a way of approaching this that we don't try to get at the leading edge of technology, we stay one generation behind to get that which is tried and true and at the economies of cost.

But we expect to have increased computer capacity for now and in the future with this upgrading that we intend to do.

STATION IMPROVEMENTS

Mr. **Coughlin**. You are requesting $10 million for station improvements. Your justification states that "the specific locations to be selected hinge on the condition of the present facilities as well as the willingness of states and localities to share the cost of station improvements". Does that mean you don't know which projects will be funded? If not, how did you determine that you needed $10 million?

Mr. **Claytor**. The station improvements are to improve quality, safety, commissaries, handicapped—over the whole area. Our major station improvements are going to be in continuing Oakland, California; Springfield, Massachusetts and Memphis, Tennessee but our efforts everywhere are to get as many of these station improvements done by the local community as possible.

This $10 million is a figure that we will have to spend to the extent we can't get the local people to do the job. But it will not be spent wherever we can get a local community to pay, and that's been quite successful.

Mr. Coughlin. When will a final project list and cost allocation be available?

Mr. Claytor. Cost allocation for stations?

Mr. Coughlin. Right.

Mr. Claytor. I doubt if it will be available until we go through the year. We use this as a reserve for these stations, and we'll spend only as much of it as we need to spend, and it will only occur as we go along.

For example, when we are moving the Broadway Limited and the Capital Limited to a new route, the arrangement calls for Conrail to give us some money for station platforms at new stations. We are going to be expecting the local community to put up the station if they want one. There may be some money that we have to put into that; we won't know until we find out what we've been able to do with the local community. And that will occur over the next four to six months.

OTHER CAPITAL EXPENSES

Mr. Coughlin. You are also projecting $26 million in "other" capital expenses. Please provide a detailed description of each of these projects and their corresponding funding requirement and Federal/private cost share.

[The information follows:]

Although we have not completed our final planning and capital project prioritization process, following is a listing of the principal projected FY 91 "other" capital expenses:

Funding Requirement

Project Title:	*Millions*
Training related programs	$1.6
New York control center construction	8.0
Reservation sales office programs	6.4
Material handling facilities	3.6
Asbestos removal/pollution control systemwide	4.0
"Reserves" to fund projects under $0.100	2.0

The amounts indicated for the Control Center represent Amtrak's share of the project costs. For the other projects, we would use a combination of federal grant funds and internally generated funds. The amount of federal grant funds required for a particular project can not be determined until the financing arrangements are finalized. We expect that private financing will be available only for such programs as new passenger cars, locomotives, highway vehicles and information services hardware and not any of these "other" projects.

Mr. Coughlin. Please also provide the current estimate of "other" capital expenses for fiscal years 1987 through 1990.

[The information follows:]

Following is the current estimate of "other" capital expenses for fiscal years 1987 through 1990:

Fiscal year:	*Millions*
1987	$17
1988	4
1989	5
1990	16

In 1987, the major "other" projects funded included $4.6 million for asbestos removal at Penn Station in New York, $1.2 million for portable radios for train crews, and $1 million for the first phase of a loss prevention program at our major maintenance facilities.

The major "other" projects funded in 1988 included $1.8 million for highway vehicles and $1.1 million for a capitalized mainframe computer lease.

The 1989 major "other" projects funded were $1.4 million for highway vehicles, $0.6 million for pollution control, and $0.5 million for the maintenance facility loss prevention program.

TAX-EXEMPT BONDS

Mr. COUGHLIN. Amtrak has proposed that it be allowed to issue tax-exempt bonds in order to reduce its cost of capital. What exactly is your proposal, and can you quantify the annual financial benefits?

[The information follows:]

Although Amtrak has on proposal formally pending, we would support legislation granting Amtrak authority to issue tax-exempt bonds to finance capital programs.

The benefit derived from the ability to finance with tax exempt bonds is that the borrower pays a lesser interest rate on the debt resulting in a smaller debt service payment.

At current interest rates the saving between a taxable and a tax-exempt issue would be approximately 2¼ percent.

Mr. COUGHLIN. Is such a provision likely to emerge in the Amtrak reauthorization bill, and if not, do you know why not?

[The information follows:]

Such an amendment to allow Amtrak to issue tax-exempt bonds would fall within the jurisdiction of the Ways and Means and the Finance Committees, which have not yet considered this issue.

ADJOURNMENT

Mr. COUGHLIN. Mr. Chairman, that concludes the justification questions.

Mr. LEHMAN. All right. Do you have any other general questions, Mr. Coughlin?

Mr. COUGHLIN. No, I don't, Mr. Chairman. These have been excellent hearings, as always, and we appreciate your service to the country.

Mr. LEHMAN. The only problem is Mr. Claytor always draws a lot of roll call votes, every time you're here. We have more roll call votes for you than all the rest of the hearings together. Thank you very much for being here.

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